

## EXHIBIT 238

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF OHIO  
3 EASTERN DIVISION

4 IN RE: NATIONAL ) MDL No. 2804  
5 PRESCRIPTION OPIATE )  
6 LITIGATION ) Case No. 1:17-MD-2804  
7 )  
8 ) Hon. Dan A. Polster  
9 THIS DOCUMENT RELATES TO )  
10 ALL CASES )  
11 )

12 Thursday, January 10, 2019  
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23 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER  
24 CONFIDENTIALITY REVIEW  
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36 Videotaped Deposition of GARY HILLIARD,  
37 held at Winstead PC, 2728 N. Harwood St.,  
38 Dallas, Texas, commencing at 9:06 a.m. on the  
39 above date, before Susan Perry Miller,  
40 Registered Diplomate Reporter, Certified  
41 Realtime Reporter, Certified Realtime  
42 Captioner, and Notary Public.  
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1 (Thursday, January 10, 2019, 9:06 a.m.)

2 THE VIDEOGRAPHER: All right,  
3 stand by. We are now on the record.  
4 My name is Brian Bobbitt. I'm a  
5 videographer for Golkow Litigation  
6 Services. Today's date is  
7 January 10th, 2019, and the time is  
8 9:06 a.m.

9 This video deposition is being  
10 held in Dallas, Texas, in the National  
11 Prescription Opiate Litigation, MDL  
12 No. 2804. The deponent is Gary  
13 Hilliard.

14 Would counsel like to identify  
15 themselves for the record.

16 MR. BOGLE: Brandon Bogle  
17 representing the plaintiffs. He's my  
18 paralegal.

19 MS. HELLER-TOIG: Elly  
20 Heller-Toig from Marcus & Shapira for  
21 HBC Service Company.

22 MR. PERRY: Stan Perry for  
23 AmerisourceBergen.

24 MR. BRODSKY: Richard Brodsky  
25 from Jones Day on behalf of Walmart.

1 MS. LUND: Juli Ann Lund from  
2 Williams & Connolly on behalf of  
3 Cardinal Health.

4 MR. KELLY: Kevin Kelly of  
5 Covington & Burling on behalf of  
6 McKesson.

7 MR. EPPICH: Chris Eppich of  
8 Covington & Burling on behalf of  
9 McKesson and the witness.

10 THE REPORTER: Thank you.  
11 Would those on the phone announce,  
12 please?

13 MR. LOMBARDO: Good morning.  
14 John Lombardo with Arnold & Porter for  
15 the Endo and Par defendants.

16 MS. LUCERO: Good morning.  
17 Laura Lucero from Collinson Daehnke on  
18 behalf of C&R Pharmacy.

19 MS. MUSKETT: Good morning.  
20 Eileen Muskett from Fox Rothschild on  
21 behalf of Validus.

22 THE REPORTER: Anyone else?

23 (No response.)

24 (Witness sworn by the  
25 reporter.)

1 P R O C E E D I N G S

2 GARY HILLIARD,

3 having taken an oath to tell the truth, the  
4 whole truth, and nothing but the truth,  
5 testified as follows:

6 EXAMINATION

7 QUESTIONS BY MR. BOGLE:

8 Q. Good morning.

9 A. Good morning.

10 Q. Can I get your full name,  
11 please?

12 A. Gary Lawrence Hilliard.

13 Q. And, Mr. Hilliard, my name is  
14 Brandon Bogle. I'm going to be asking you  
15 some questions today. Before we get into the  
16 substance, though, have you ever had your  
17 deposition taken before?

18 A. I have not.

19 Q. Okay. Just a few ground rules  
20 to hopefully make things go as smoothly as  
21 possible for us. I'm going to ask questions  
22 and I'd ask that you wait till I finish my  
23 question before you provide an answer, number  
24 one, to make sure you understand my question;  
25 number two, to allow the court reporter to

1 more easily transcribe things.

2 Does that make sense?

3 A. Yes, it does.

4 Q. Okay. And if at any point in  
5 time you want to take a break, just let me or  
6 your counsel know. I'm happy to do that.  
7 It's not an endurance contest.

8 The other thing is if I ask a  
9 question that you don't hear or don't  
10 understand, please ask me to repeat it or  
11 rephrase it and I will do so. Otherwise, I  
12 assume if you're answering my question that  
13 you understood it. Is that fair?

14 A. Yes.

15 Q. Okay. Where are you currently  
16 employed, sir?

17 A. Tech Data Corporation.

18 Q. Where is that located?

19 A. The corporate office is in  
20 Clearwater, Florida.

21 Q. Okay. Are you out of  
22 Clearwater or somewhere else?

23 A. I'm out of a Fort Worth  
24 facility.

25 Q. Give me just a general sketch



1 of what you do at Tech Data. What is your  
2 job?

3 A. I'm a dangerous goods safety  
4 advisor, so my role is to manage hazardous  
5 materials for our company in the United  
6 States, Canada and Mexico.

7 Q. Okay. Does Tech Data in any  
8 way, shape or form sell, distribute or deal  
9 in opioids?

10 A. No. It's all electronics.

11 Q. All electronics, okay.

12 When did you start working for  
13 Tech Data?

14 A. In September 2016.

15 Q. Okay. And prior to working at  
16 Tech Data, were you employed at McKesson?

17 A. I was.

18 Q. Okay. Can you give me the span  
19 of time that you worked for McKesson?

20 A. From 1997 till 2016.

21 Q. Okay. And why did you leave  
22 McKesson?

23 A. I was part of a workforce  
24 reduction.

25 Q. Okay. Were you given the

1 opportunity to transfer to another department  
2 or just outright told that they were  
3 eliminating your position and there was no  
4 other position for you?

5 A. Outright elimination.

6 Q. Okay. Now, the time from 1997  
7 to 2016 while you were at McKesson, during  
8 that entire span, were you a director of  
9 regulatory affairs?

10 A. I started as a manager of  
11 regulatory affairs.

12 Q. Okay. So tell me what time  
13 period you were the manager.

14 A. It was approximately a year, so  
15 approximately '97-98.

16 Q. Okay.

17 A. I don't remember the exact time  
18 frame.

19 Q. That approximation is good  
20 enough. So approximately 1998 you take over  
21 as director of regulatory affairs. Do you  
22 hold that position until 2016 when you leave?

23 A. That's correct.

24 Q. Okay. Do you know what month  
25 in 2016 you left?

1           A.       July, I believe.

2           Q.       Okay. So give me a sense,  
3 while you were at McKesson working at  
4 director of regulatory affairs, what your  
5 general job responsibilities were.

6           A.       My role changed over the years,  
7 but as I started, I had responsibility for  
8 DEA compliance for our pharma distribution  
9 centers within the U.S. I was over 30  
10 facilities, I don't recall exactly, but...  
11 so that entailed things such as the  
12 management of the SOP, the audit, ARCOS, loss  
13 and theft, any issue resolution; I would  
14 assist with fiscal DEA audits, also with  
15 corrective actions if there were any  
16 corrective actions with that; the suspicious  
17 order program that was in place at the time.

18          Q.       Okay.

19          A.       And then additionally I also  
20 had responsibility for HAZMAT, hazardous  
21 materials. I also had responsibility for EPA  
22 environmental issues, waste disposal. I also  
23 had responsibility for DEA registrations,  
24 state licensure. I was also active with the  
25 industry association with NWDA on working

1 committees for both federal and state.

2 Q. Is that the -- I'm sorry, go  
3 ahead. Keep going.

4 A. And did some work on the OSHA  
5 side as well for safety.

6 Q. Okay.

7 A. Also, I had responsibility for  
8 FDA actions for -- as it related to our  
9 operations.

10 Q. Okay. I've got a few follow-up  
11 questions for you. Are you done? I want to  
12 make sure you're done.

13 A. That's fine.

14 Q. Good. Okay. A few follow-up  
15 questions for you on a couple of these points  
16 you gave me. You said you were responsible  
17 for the SOP. What SOP are you referring to?

18 A. Section 55 is what we referred  
19 it to when we started. It was already in  
20 place when I arrived at McKesson, and follow  
21 up on that until a migration took place,  
22 changes took place in the 2006 time frame.

23 Q. Okay. Because you guys went  
24 from Section 55 to approximately 2007, you go  
25 to the LDMP, the Lifestyle Drug Management

1 Program? True?

2 A. True.

3 Q. Okay. And then in  
4 approximately 2008, you go to the Controlled  
5 Substances Monitoring Program, otherwise  
6 known as the CSMP. True?

7 A. True.

8 Q. Okay. So did you have  
9 responsibility for -- let's do one by one.  
10 So the Section 55 component, you had  
11 responsibility for Section 55 in what  
12 respect?

13 A. Updates and adherence for our  
14 operations to the policy.

15 Q. For what period of time did you  
16 have that responsibility?

17 A. From '97 till 2006.

18 Q. Okay. Let's talk about the  
19 LDMP. Did you have any responsibility  
20 related to the LDMP?

21 A. I helped create that LDMP  
22 process.

23 Q. Okay. So after it was created,  
24 what was your responsibility in relationship  
25 to that program?

1           A.       I worked with our team to  
2       ensure compliance with that program and to  
3       develop it.

4           Q.       Okay. What about the CSMP?  
5       What involvement did you have with the CSMP?

6           A.       I also helped write that SOP as  
7       well.

8           Q.       What sort of experience did you  
9       have with drafting SOPs prior to drafting the  
10      LDMP, for example?

11          A.       I had drafted SOPs in the past  
12      with my previous employers as well, so no  
13      formal training, if you will, for SOPs. But  
14      just -- when something needed to be revised  
15      or something wasn't in place and needed to be  
16      created, then I would work on the SOPs for  
17      that.

18          Q.       Okay. Prior to drafting the  
19      LDMP, had you had any experience drafting any  
20      SOPs that related to suspicious order  
21      monitoring for controlled substances?

22          A.       Just the experience from what  
23      we gained from the original Section 55, and  
24      then the changes that were necessary as we  
25      developed that program.

1           Q.       Okay. And where did you work  
2 before you came to McKesson?

3           A.       FoxMeyer Drug Company.

4           Q.       What did you do for them just  
5 generally?

6           A.       Same thing, manager of  
7 regulatory affairs.

8           Q.       How long were you with them?

9           A.       Approximately two years.

10          Q.       Immediately before McKesson?

11          A.       Immediately before. McKesson  
12 acquired FoxMeyer so it was part of the  
13 acquisition.

14          Q.       Gotcha.

15                   Did you have any sort of  
16 regulatory job prior to working at FoxMeyer?

17          A.       I did. I worked regulatory for  
18 a reverse distributor of pharmaceuticals.

19          Q.       Can you say that again? I'm  
20 sorry.

21          A.       A reverse distributor.

22          Q.       Reverse distributor.

23          A.       RDS was the name, Reverse  
24 Distribution Services.

25          Q.       How long did you work for them?

1 A. Two years.

2 Q. Immediately preceding FoxMeyer?

3 A. Correct.

4 Q. Any other regulatory position  
5 that you held prior to joining McKesson?

6 A. I worked in environmental, and  
7 so I gained an environmental background  
8 through waste management, Chemical Waste  
9 Management to be more specific, so we were  
10 trained in EPA requirements and Department of  
11 Transportation, FAA requirements as well.

12 Q. What company are you referring  
13 to there?

14 A. Chemical Waste Management.

15 Q. Chemical Waste Management.

16 Okay. Any others prior to  
17 McKesson that are regulatory-related?

18 A. No.

19 Q. All right. So a couple of  
20 other follow-ups. You mentioned, while at  
21 McKesson, having responsibility related to  
22 audit processes. In what respect were you  
23 responsible for audit processes at McKesson?

24 A. I would update the audit as  
25 necessary and then I'd go out to our



1 facilities and conduct audits.

2 Q. Okay. You're talking about a  
3 specific SOP that you would update for  
4 audits, or what are you referring to by  
5 "update the audit"?

6 A. There was an audit that was  
7 already written and it correlated to  
8 Section 55, and I audited against that.

9 Q. Okay. How long did you have  
10 responsibility for audits?

11 A. From '97 till approximately  
12 2014.

13 Q. Okay. Just from prior  
14 depositions, I understand that Tracy Jonas  
15 also had some responsibility for audits. How  
16 did your responsibility for audits compare to  
17 his?

18 A. So when the audit was changed  
19 to -- we referred to it as a STARS audit, and  
20 so we co-wrote good portions of those audits,  
21 and then he ultimately took over facilitation  
22 of the audit program.

23 Q. Okay. And that would have been  
24 in 2014, you're saying?

25 A. I'm not sure when -- the STARS

1       audit took place probably before 2014, but  
2       I'm not exactly sure of the date.

3               Q.       Okay. All right. You  
4       mentioned responsibilities related to  
5       suspicious order -- I think "purchasing" was  
6       the term you used. Maybe you used a  
7       different term, but something related to  
8       suspicious order monitoring or purchasing.

9               A.       Monitoring.

10              Q.       What was your responsibility  
11       there?

12              A.       To -- adherence to our SOP.

13              Q.       Okay. Going back to  
14       Section 55, the LDMP and the CSMP?

15              A.       Correct.

16              Q.       During what time period did you  
17       have those responsibilities?

18              A.       1997 until -- again, I'm not  
19       sure when the STARS ended. It was handed off  
20       to Dave Gustin. I don't know, 2013 -- 2014,  
21       maybe.

22              Q.       An approximation is fine.

23              A.       I'm not sure.

24              Q.       I'm not going to hold you to an  
25       exact date. I just want to get a sense of

1       what the scope is here.

2                   You also said you handled DEA  
3       registrations and state licensure?

4           A.       Correct.

5           Q.       For what time period did you  
6       have those responsibilities?

7           A.       '97 till 2016.

8           Q.       Okay. You mentioned being  
9       actively involved in the -- I think it was  
10      NWMA? Is that right?

11          A.       HDMA.

12          Q.       Right. I think you mentioned  
13      the predecessor term.

14          A.       NWDA, National Wholesale Drug  
15      Association.

16          Q.       Which then became the HDMA,  
17      right?

18          A.       And now is NDA, I believe, yes.

19          Q.       I think maybe HDA.

20          A.       HDA.

21          Q.       I think so. It doesn't matter.

22          A.       Okay.

23          Q.       Okay. What sort of committees  
24      were you on at NWDA?

25          A.       I was on the federal committees

1 in reference to DEA, also state committee,  
2 pharmaceutical waste management committee,  
3 transportation committee.

4 Q. Okay. Let's talk about the  
5 federal DEA committee. What did you do --  
6 what was your involvement with that  
7 committee? What did you do?

8 A. We would meet typically  
9 annually and with our counterparts from other  
10 wholesalers and sometimes manufacturers, and  
11 we would discuss issues that were happening,  
12 proposed regulations that were coming up.  
13 That's primarily it.

14 Q. Okay. And so this NWDA was a  
15 trade association for pharmaceutical  
16 distributors primarily, correct?

17 A. That's correct.

18 Q. Okay. And so as part of that  
19 association, as a member of that association,  
20 you would have interactions with other  
21 employees of other pharmaceutical  
22 distributors. Is that fair?

23 A. That's correct.

24 MR. EPPICH: Object to the  
25 form.

1                   Give me a minute to object, if  
2                   you don't mind.

3           QUESTIONS BY MR. BOGLE:

4           Q.       How frequently would you attend  
5           meetings for NWDA, approximately?

6           A.       Approximately twice a year.

7           Q.       Okay. Would those meetings  
8           generally be attended by employees of other  
9           pharmaceutical distributors as well?

10          A.       That's correct.

11          Q.       Okay. You also mentioned  
12          having responsibility for ARCOS. Can you  
13          tell me what you did related to ARCOS?

14          A.       I would train our employees at  
15          our facilities when they needed training. I  
16          would assist in problems that they may have  
17          understanding what types of code assignments  
18          would be associated with a type of  
19          transaction. If they had error reports that  
20          they needed assistance with, and any  
21          communications from ARCOS corporate, then I  
22          would typically work with them on that.

23          Q.       Okay. And when it came to the  
24          ARCOS training you're referring to, are you  
25          talking about training people at the

1 distribution centers?

2 A. That's correct.

3 Q. All right. So from 1997 to  
4 2007, would you have had responsibility for  
5 regulatory compliance for all of McKesson's  
6 distribution centers?

7 A. For the pharmaceutical  
8 division.

9 Q. Okay. Well, let me rephrase it  
10 because I think that's a fair clarification.

11 So from 1997 to 2007, would you  
12 have had responsibility for compliance with  
13 the Controlled Substances Act as it pertained  
14 to all of McKesson's distribution centers?

15 A. That would be correct.

16 Q. Okay. And, now, in 2008, as I  
17 understand it, there were some additional  
18 people added to McKesson's regulatory team.  
19 Is that true?

20 A. That's correct.

21 Q. Okay. And so when that change  
22 occurred and additional people were added, as  
23 I understand it, you would then have not been  
24 responsible for all of those distribution  
25 centers when it pertains to Controlled

1 Substance Act compliance. True?

2 MR. EPPICH: Object to the  
3 form.

4 A. There were regional directors  
5 and I did not have a region. So the regional  
6 directors specifically worked with the new  
7 programs that were being developed, whereas I  
8 worked on other operational aspects.

9 QUESTIONS BY MR. BOGLE:

10 Q. Okay. From the information  
11 that I've looked at from the time period of  
12 1997 to 2007, when it came to Controlled  
13 Substances Act compliance at McKesson, you  
14 guys had a three-person team which consisted  
15 of Donald Walker, yourself, and Bruce  
16 Russell. Is that true?

17 A. When I started, there was -- I  
18 reported to Dan White, who was a VP of  
19 regulatory, and I reported to -- I'm sorry,  
20 not reported. I also had a colleague that  
21 was a director of regulatory affairs, Rolly  
22 Blythe.

23 Q. Okay. When did Mr. White leave  
24 the company, roughly?

25 A. He transitioned to a different

1       role, and I do not recall the date.

2               Q.       The other name was Rolly White,  
3       I believe you gave me?

4               A.       Blythe.

5               Q.       Oh, Blythe, I'm sorry. When  
6       did that individual cease working in  
7       regulatory affairs, roughly?

8               A.       He retired, and again, I don't  
9       recall the exact time frame, but it was  
10      probably a few years, three, four years, in.

11              Q.       To your tenure?

12              A.       Correct.

13              Q.       What did Rolly Blythe, what did  
14      that person generally do during that time  
15      period that they were there?

16              A.       The same role, so he was my  
17      predecessor, and he managed the DEA  
18      compliance.

19              Q.       Okay. And Mr. White, what was  
20      his role?

21              A.       He oversaw the regulatory  
22      department, which included DEA compliance.

23              Q.       So would he have been --  
24      Mr. White been in that role during the same  
25      time that Donald Walker was working in



1 regulatory affairs?

2 A. No.

3 Q. No. So did Mr. Walker sort of  
4 take his role over?

5 A. Mr. Walker took over SVP of  
6 operations, and then I started reporting up  
7 through him.

8 Q. Okay.

9 A. Again, I don't remember the  
10 exact time frame.

11 Q. That's fine.

12 Do you agree that there is an  
13 ongoing opioid epidemic in this country?

14 A. I don't know about opioid  
15 epi- -- sorry, epidemic, in those term- -- in  
16 that terminology.

17 Q. Okay. Do you believe there's  
18 any sort of problem in this country as it  
19 relates to opioids?

20 MR. EPPICH: Object to the  
21 form.

22 MR. PERRY: Object to form.

23 A. I don't know.

24 QUESTIONS BY MR. BOGLE:

25 Q. You don't know, okay.

1 Did you ever receive any  
2 training, formal or informal, about a  
3 potential epidemic in this country while at  
4 McKesson?

5 MR. EPPICH: Object to the  
6 form.

7 QUESTIONS BY MR. BOGLE:

8 Q. Related to opioids?

9 MR. EPPICH: Object to the  
10 form.

11                   A.       I don't know.

12 QUESTIONS BY MR. BOGLE:

13 Q. Did you ever have any  
14 discussions with any of your colleagues at  
15 McKesson about a potential opioid epidemic in  
16 this country?

17           A.       Not that I recall in that  
18    frame -- of that terminology.

19 Q. Okay. Any other sort of  
20 terminology that you would utilize that you  
21 did have such a discussion?

22 MR. EPPICH: Object to the  
23 form.

1. ☐ **Yes**  
 2. ☐ **No**  
 3. ☐ **Don't know**

A vertical list of 20 horizontal bars of varying lengths and positions, representing a stylized barcode or data visualization. The bars are arranged in a column, with some starting at the left edge and others indented. The lengths vary significantly, with some bars spanning most of the width of the image and others being much shorter. The bars are a solid gray color against a white background.

22 MR. EPPICH: Object to the  
23 form.

24 QUESTIONS BY MR. BOGLE:

25 Q. Okay. Are you familiar with

1 the term "diversion"?

2                      A.                      I am.

3 Q. What do you understand that  
4 term to mean?

5 MR. EPPICH: Object to the  
6 form. Calls for a legal conclusion.

7           A.           Controlled substance  
8        pharmaceuticals being utilized outside the  
9        course of legal requirements under the CSA.

10 QUESTIONS BY MR. BOGLE:

Age Group	Percentage
18-24	10%
25-34	15%
35-44	25%
45-54	30%
55-64	15%
65-74	10%
75-84	5%
85+	5%

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Downloaded from <http://ajph.org/> at University of California, San Diego on June 11, 2015

Age Group	Percentage
18-24	10%
25-34	15%
35-44	20%
45-54	25%
55-64	30%
65-74	35%
75-84	40%
85+	45%

17 QUESTIONS BY MR. BOGLE:

18 Q. All right. I'm going to hand  
19 you what I'm marking as Exhibit 1.1651, which  
20 is also Exhibit 1 to your deposition, and  
21 that's MCKMDL00498169.

22 (McKesson-Hilliard Exhibit 1  
23 was marked for identification.)

24 QUESTIONS BY MR. BOGLE:

25 Q. There you go, sir.

1                   Okay, Mr. Hilliard. What I've  
2       handed you as Exhibit 1 you see is an e-mail  
3       on the first page and then sort of a  
4       PowerPoint slide deck behind it.

5                   Do you see that?

6           A.       I see that.

7           Q.       Okay. And starting with the  
8       e-mail on the first page, you see that's an  
9       e-mail from Donald Walker dated May 2, 2012,  
10      to several individuals, including yourself,  
11      right?

12          A.       I see that.

[REDACTED]

[illegible]

[illegible]

[illegible]



Group	U.S. should take action	U.S. should not take action
Total	75%	25%
U.S.-born	85%	15%
Foreign-born	65%	35%

20 I'm going to hand you what I'm  
21 marking as Exhibit 2 to your deposition,  
22 which is Exhibit 1.264. This is a public  
23 document so no Bates numbers.

24 (McKesson-Hilliard Exhibit 2  
25 was marked for identification.)

1       QUESTIONS BY MR. BOGLE:

2               Q.       Okay. You see here this is a  
3       document from the U.S. House of  
4       Representatives Committee on Energy and  
5       Commerce from May 4, 2018.

6                       Do you see that?

7               A.       I see that.

8               Q.       Okay. And it's -- the  
9       regarding line says: Hearing entitled  
10      "Combating the Opioid Epidemic: Examining  
11      Concerns About Distribution and Diversion."

12                      Do you see that there?

13              A.       I do see that.

14              Q.       Okay. Have you followed the  
15      outcomes of any of these congressional  
16      hearings on the opioid epidemic?

17              A.       I have not.

18              Q.       You said you were aware of  
19      them, right?

20              A.       I am aware of them but I have  
21      not followed them. I've been out of  
22      pharmaceuticals for a while now.

23              Q.       If you look at the second page  
24      of this document, underneath the chart it  
25      says: The U.S. continues to experience an

1       opioid epidemic, which has worsened over the  
2       last two decades. Opioid-involved overdose  
3       deaths are the leading cause of injury death  
4       in the U.S. and take the lives of 115  
5       Americans per day.

6                       Is that a statistic you've seen  
7       before?

8                       MR. EPPICH: Objection,  
9       foundation.

10       A.       It is not.

11       QUESTIONS BY MR. BOGLE:

12       Q.       "According to a recent report  
13       issued by the Centers for Disease Control and  
14       Prevention (CDC), prescription or illicit  
15       opioids were involved in nearly two-thirds of  
16       all drug overdose deaths in the U.S. during  
17       2016 - a 27.7 percent increase from 2015. In  
18       total, more than 351,000 people have died  
19       since 1999 due to an opioid-involved  
20       overdose."

21                       And then it says: The crisis  
22       has become so severe that the average life  
23       expectancy declined in 2016 from the previous  
24       year, largely because of opioid overdoses.

25                       Do you see that?

1 MR. EPPICH: Objection,  
2 foundation.

3 A. I see it on the page.

4 QUESTIONS BY MR. BOGLE:

5 Q. Okay. And the information I  
6 read to you, those last three sentences  
7 there, any of that information you were aware  
8 of prior to today?

9 A. I was not.

10 Q. And so from our discussion at  
11 the beginning of the deposition, you worked  
12 at McKesson for, what, just shy of 20 years,  
13 right?

14 A. Correct.

15 Q. Okay. And so during that time  
16 period, did you have the belief that  
17 protecting the health and safety of the  
18 public should be the most important  
19 consideration for a pharmaceutical  
20 distributor like McKesson?

21 MR. EPPICH: Object to the  
22 form.

23 A. I don't know.

24 QUESTIONS BY MR. BOGLE:

25 Q. Okay. Did you ever consider

1       what sort of considerations should be most  
2       important for your job as you performed it?

3                       MR. EPPICH: Object to the  
4                       form.

5                       A.       We complied with the CSA  
6       requirements.

7       QUESTIONS BY MR. BOGLE:

8                       Q.       Okay. Did you ever consider  
9       why those requirements existed?

10                      MR. EPPICH: Object to the  
11                      form.

12       QUESTIONS BY MR. BOGLE:

13                      Q.       What their purpose was?

14                      MR. EPPICH: Object to the  
15                      form.

16                      A.       Protection of the supply chain  
17       under controlled substances.

18       QUESTIONS BY MR. BOGLE:

19                      Q.       When you mean -- when you say  
20       "protection of the supply chain," what do you  
21       mean by that?

22                      A.       Controlled substances stay in  
23       legitimate markets.

24                      Q.       And why would it be important  
25       for controlled substances to stay in

1       legitimate markets --

2                       MR. EPPICH: Object to the

3                       form.

4       QUESTIONS BY MR. BOGLE:

5               Q.       -- from your understanding?

6                       MR. EPPICH: Object to the

7                       form. Foundation.

8               A.       It's a requirement of the CSA.

9       QUESTIONS BY MR. BOGLE:

10              Q.       Okay. Anything beyond that?

11                      MR. EPPICH: Same objections.

12              A.       I don't know.

13       QUESTIONS BY MR. BOGLE:

14              Q.       Okay. While you were with  
15       McKesson, the company was a distributor of  
16       controlled substances, right?

17              A.       That's correct.

18              Q.       Okay. And those controlled  
19       substances included opioid products, right?

20              A.       That's correct.

21              Q.       Okay. And opioid products are  
22       generally in the class of drugs known as  
23       narcotics, right?

24                      MR. EPPICH: Object to the  
25                      form; foundation.

1           A.       Some of them can be.

2       QUESTIONS BY MR. BOGLE:

3           Q.       Okay. Are you aware of any  
4       opioids that are nonnarcotic?

5           MR. EPPICH: Same objections.

6           A.       Not that I recall.

7       QUESTIONS BY MR. BOGLE:

8           Q.       We talked about this a little  
9       bit at the beginning of the deposition, but  
10      in your role as manager and then director of  
11      regulatory affairs, you would have had  
12      responsibility for having understanding of  
13      the Controlled Substances Act, right?

14          A.       Correct.

15          Q.       And the Controlled Substances  
16      Act itself, you understand, is designed to  
17      prevent the diversion of controlled  
18      substances like opioids, right?

19          MR. EPPICH: Object to the  
20      form. Calls for a legal conclusion.

21          A.       I don't know.

22      QUESTIONS BY MR. BOGLE:

23          Q.       Okay. Do you have any sense as  
24      to what the purpose of the Controlled  
25      Substances Act was while you worked at

1 McKesson?

2 A. To prevent diversion.

3 Q. Okay. And under the Controlled  
4 Substances Act while you were with McKesson,  
5 one of McKesson's responsibilities was to  
6 have effective controls against diversion,  
7 right?

8 A. That's correct.

9 MR. EPPICH: Object to the  
10 form. Calls for a legal conclusion.

11 QUESTIONS BY MR. BOGLE:

12 Q. Another responsibility under  
13 the Controlled Substances Act while you were  
14 with McKesson would be to monitor for  
15 suspicious controlled substances orders,  
16 right?

17 MR. EPPICH: Object to the  
18 form. Calls for a legal conclusion.

19 A. We followed the processes and  
20 procedures that we had in place that were to  
21 comply with the CSA requirements.

22 QUESTIONS BY MR. BOGLE:

23 Q. Okay. But did you have an  
24 understanding while you were at McKesson that  
25 the company had a responsibility to monitor



1 for suspicious orders --

2 MR. EPPICH: Same objections.

3 QUESTIONS BY MR. BOGLE:

4 Q. -- for controlled substances?

5 A. We did monitor for controlled  
6 substance orders.

7 Q. Okay. Did you know where that  
8 responsibility came from?

9 A. CSA requirements.

10 Q. Okay. And while you were at  
11 McKesson, did you also understand that there  
12 was a responsibility to report suspicious  
13 orders when they were detected to the DEA?

14 MR. EPPICH: Object to the  
15 form. Calls for a legal conclusion.

16 A. The process was to report  
17 controlled substances orders according to the  
18 SOP.

19 QUESTIONS BY MR. BOGLE:

20 Q. Okay. And the SOP required  
21 that if suspicious orders were detected, they  
22 were to be reported to the DEA, correct?

23 MR. EPPICH: Object to the  
24 form.

25 A. They were reported to the DEA.

1 QUESTIONS BY MR. BOGLE:

2 Q. Okay. When you say "they,"  
3 we're talking about suspicious orders, right,  
4 for controlled substances?

5 A. That's correct.

6 Q. Okay. And did you also  
7 understand while you were at McKesson that  
8 the company was to block any orders that it  
9 deemed suspicious?

10 MR. EPPICH: Object to the  
11 form.

12 A. That was not a requirement of  
13 the CSA.

14 QUESTIONS BY MR. BOGLE:

15 Q. Okay. At any point in time  
16 while you were at the company?

17 MR. EPPICH: Object to the  
18 form. Calls for a legal conclusion.

19 A. We made changes, developed  
20 changes to our processes, and -- with the  
21 CSMP program, and so with the CSMP program  
22 that program did block.

23 QUESTIONS BY MR. BOGLE:

24 Q. Okay. Do you have an  
25 understanding as to why the CSMP blocked

1 suspicious orders?

2 MR. EPPICH: Object to the

3 form.

4 QUESTIONS BY MR. BOGLE:

5 Q. Why that was a component of it?

6 MR. EPPICH: Object to the

7 form.

8 A. A guidance document provided by

9 Rannazzisi.

10 QUESTIONS BY MR. BOGLE:

11 Q. And do you recall when you

12 first saw that guidance document?

13 MR. EPPICH: Object to the

14 form.

15 A. Approximately 2006.

16 QUESTIONS BY MR. BOGLE:

17 Q. Okay. And so prior to

18 receiving that document in approximately

19 2006, it was your personal belief that there

20 was no responsibility for McKesson to block

21 suspicious orders. Is that true?

22 MR. EPPICH: Object to the

23 form. Calls for a legal conclusion.

24 A. It was not a requirement of the

25 CSA.

1 QUESTIONS BY MR. BOGLE:

2 Q. Okay. And so if I'm  
3 understanding your testimony correctly, prior  
4 to the implementation of the CSMP in 2008, it  
5 was not McKesson's policy to block suspicious  
6 orders. Is that true?

7 MR. EPPICH: Object to the  
8 form.

9 A. Blocking of the orders was not  
10 a requirement under the CSA.

11 QUESTIONS BY MR. BOGLE:

12 Q. Yeah. I'm just asking whether  
13 it was a company policy to block suspicious  
14 orders prior to 2008. I'm not asking about  
15 the CSA right now.

16 MR. EPPICH: Object to the  
17 form.

18 A. We complied with requirements  
19 under the CSA.

20 QUESTIONS BY MR. BOGLE:

21 Q. Yeah. I'm just asking whether  
22 prior to 2008 when the CSMP was implemented,  
23 was it McKesson's policy to not block  
24 suspicious orders when they were detected?

25 MR. EPPICH: Object to the

1 form.

2 A. We complied with the CSA  
3 requirements.

4 QUESTIONS BY MR. BOGLE:

5 Q. Okay. I guess I don't  
6 understand how that applies to my question.  
7 I'm just asking if you guys blocked  
8 suspicious orders prior to 2008.

9 MR. EPPICH: Object to the  
10 form.

11 A. Blocking was not a requirement.

12 QUESTIONS BY MR. BOGLE:

13 Q. So the answer is no, that that  
14 wasn't done --

15 MR. EPPICH: Object to the  
16 form.

17 QUESTIONS BY MR. BOGLE:

18 Q. -- prior to 2008?

19 A. We complied with the CSA  
20 requirements.

21 Q. Okay. I got that that's your  
22 answer, but I'm trying to just get a specific  
23 answer to a specific question, which is to  
24 nail down in time when McKesson, to your  
25 understanding, started blocking suspicious

1 orders for controlled substances. Can you  
2 tell me when that started occurring?

3 A. The CSMP, which was about 2008.

4 Q. Okay. I'm going to hand you  
5 what I'm marking as Exhibit 3, which is  
6 1.1464, and that's MCKMDL00478906.

7 (McKesson-Hilliard Exhibit 3  
8 was marked for identification.)

9 QUESTIONS BY MR. BOGLE:

10 Q. And you see this is a letter  
11 from the U.S. Department of Justice Drug  
12 Enforcement Administration dated  
13 September 27, 2006.

14 Do you see that?

15 A. I see that.

16 Q. Is this the guidance document  
17 from Mr. Rannazzisi that you were referring  
18 to a minute ago?

19 A. Yes, it is.

20 Q. Okay. So you've seen this  
21 document before. True?

22 A. Yes.

23 Q. Okay. I want to look at a  
24 couple of components of this letter. It  
25 says, in the first line: This letter is

1       being sent to every commercial entity in the  
2       United States registered with the Drug  
3       Enforcement Administration (DEA) to  
4       distribute controlled substances. The  
5       purpose of this letter is to reiterate the  
6       responsibilities of controlled substance  
7       distributors in view of the prescription drug  
8       abuse problem our nation currently faces.

9                       Do you see that?

10            A.       I see that.

11            Q.       The term "reiterate" is used  
12       there in that sentence. What do you  
13       understand the term "reiterate" to mean?

14                       MR. EPPICH: Object to the  
15       form. Foundation.

16            A.       This is written by  
17       Mr. Rannazzisi. I don't know what he's  
18       referring to, reiterate.

19       QUESTIONS BY MR. BOGLE:

20            Q.       I'm just asking if you  
21       understand what the term "reiterate" means.

22                       MR. EPPICH: Asked and  
23       answered.

24            A.       I don't know.

25                               --oOo--

1       QUESTIONS BY MR. BOGLE:

2               Q.       You don't know what the term  
3       "reiterate" means in general use?

4                       MR. EPPICH:   Object to the  
5       form.   Foundation.

6               A.       I don't know.

7       QUESTIONS BY MR. BOGLE:

8               Q.       Okay.   Going down to the third  
9       paragraph in this letter, I'm looking at the  
10      sentence that starts with "Distributors are,  
11      of course."

12                      Do you see that in the middle  
13      of the paragraph?

14              A.       Third paragraph?   Yes, I see  
15      that now.

16              Q.       All right.   It says:  
17      Distributors are, of course, one of the key  
18      components of the distribution chain.   If the  
19      closed system is to function properly as  
20      Congress envisioned, distributors must be  
21      vigilant in deciding whether a prospective  
22      customer can be trusted to deliver controlled  
23      substances only for lawful purposes.

24                      Do you see that?

25              A.       Yes, I see that.



1 Q. Okay. Do you agree with that  
2 sentence?

3 MR. EPPICH: Object to the  
4 form. Foundation.

5 A. I don't know.

6 QUESTIONS BY MR. BOGLE:

7 Q. You don't have an opinion one  
8 way or the other whether that's an accurate  
9 statement?

10 A. No, I don't.

11 Q. Okay. Do you have any opinion  
12 as to whether McKesson should have at all  
13 times been vigilant in deciding which  
14 customers got controlled substances from  
15 them?

16 MR. EPPICH: Object to the  
17 form.

18 A. I don't know.

19 QUESTIONS BY MR. BOGLE:

20 Q. Okay. And it says -- it goes  
21 on: This responsibility is critical, as  
22 Congress has expressly declared that the  
23 illegal distribution of controlled substances  
24 has a substantial and detrimental effect on  
25 the health and general welfare of the

1 American people.

2 Do you see that?

3 A. Yes, I see that.

4 Q. Okay. Do you agree that  
5 illegal distribution of controlled substances  
6 has a substantial and detrimental effect on  
7 the health and general welfare of the  
8 American people?

9 MR. EPPICH: Object to the  
10 form. Foundation.

11 A. I don't know.

12 QUESTIONS BY MR. BOGLE:

13 Q. Okay. Is that something you  
14 ever considered while you were at McKesson,  
15 that concept?

16 MR. EPPICH: Object to the  
17 form.

18 A. I don't recall.

19 QUESTIONS BY MR. BOGLE:

20 Q. Okay. Going to the second page  
21 here of the letter, the third paragraph that  
22 starts with "The statutory factors."

23 Do you see that?

24 A. Yes, I see that.

25 Q. It says there: The statutory

1 factors DEA must consider in deciding whether  
2 to revoke a distributor's registration are  
3 set forth in 21 U.S.C. 823(e). Listed first  
4 among these factors is the duty of  
5 distributors to maintain effective controls  
6 against diversion of controlled substances  
7 into other than legitimate medical,  
8 scientific, and industrial channels.

9 Do you see that?

10 A. Yes, I see that.

11 Q. And you're familiar with that  
12 portion of the regulations, right?

13 MR. EPPICH: Object to the  
14 form.

15 A. I don't recall.

16 QUESTIONS BY MR. BOGLE:

17 Q. Okay. If you go to the next  
18 paragraph, it starts with: The DEA  
19 regulations require all distributors to  
20 report suspicious orders of controlled  
21 substances.

22 Do you see that?

23 A. Yes, I see that.

24 Q. Okay. And you understand that  
25 at all times that you were with McKesson that

1 the DEA regulations did require distributors  
2 to report suspicious orders of controlled  
3 substances?

4 MR. EPPICH: Object to the  
5 form. Calls for a legal conclusion.

6 A. It was under the CSA.

7 QUESTIONS BY MR. BOGLE:

8 Q. Right. So you knew that's  
9 something that McKesson was supposed to do  
10 under the CSA, right?

11 MR. EPPICH: Same objections.

12 A. Yes, I recall.

13 QUESTIONS BY MR. BOGLE:

14 Q. Okay. The next paragraph that  
15 starts with "It bears emphasis," do you see  
16 that?

17 A. Yes, I see that.

18 Q. It says: It bears emphasis  
19 that the foregoing reporting requirement is  
20 in addition to, and not in lieu of, the  
21 general requirement under 21 U.S.C. 823(e)  
22 that a distributor maintain effective  
23 controls against diversion.

24 Do you see that sentence?

25 A. Yes, I see that.

1           Q.       Were you aware while you were  
2       at McKesson that these were two different  
3       concepts and that there was a reporting  
4       requirement and a separate requirement to  
5       maintain effective controls against  
6       diversion?

7                   MR. EPPICH: Object to the  
8       form. Calls for a legal conclusion.

9       A.       I don't recall.

10      QUESTIONS BY MR. BOGLE:

11           Q.       Okay. While you were working  
12       at McKesson, did you operate as if there were  
13       two separate requirements, a reporting  
14       requirement and also a requirement to have  
15       effective controls against diversion?

16                   MR. EPPICH: Object to the  
17       form.

18       A.       I don't recall.

19      QUESTIONS BY MR. BOGLE:

20           Q.       Okay. It goes on and says:  
21       Thus, in addition to reporting all suspicious  
22       orders, a distributor has a statutory  
23       responsibility to exercise due diligence to  
24       avoid filling suspicious orders that might be  
25       diverted into other than legitimate medical,

1 scientific, and industrial channels.

2 Do you see that?

3 A. I see that.

4 Q. Okay. And that's referring to  
5 the requirement to block suspicious orders  
6 when they're detected, right?

7 MR. EPPICH: Object to the  
8 form. Foundation.

9 A. I'm not sure.

10 QUESTIONS BY MR. BOGLE:

11 Q. Okay. What do you think that  
12 refers to, then?

13 A. I don't know.

14 Q. Okay. So do you have any  
15 understanding of what that -- what he's  
16 getting at there in that sentence?

17 A. I don't know.

18 Q. Okay. Do you recall ever  
19 asking any of your colleagues to help you  
20 understand what Mr. Rannazzisi was saying in  
21 that sentence that I just read?

22 A. Not that I recall.

23 Q. Okay. Do you ever recall  
24 reaching out to anyone at the DEA asking them  
25 to explain to you what was meant by the

1 sentence I just read?

2 A. Not that I recall.

3 Q. Okay. That would have fallen  
4 within your purview, though. If the DEA's  
5 view is that this is part of McKesson's  
6 responsibilities under the Controlled  
7 Substances Act in 2006 time frame, that would  
8 have been within your purview of your  
9 responsibilities, right?

10 MR. EPPICH: Object to the  
11 form. Assumes facts not in evidence.

12 A. I don't recall.

13 QUESTIONS BY MR. BOGLE:

14 Q. Okay. I think we talked about  
15 earlier in the deposition that compliance  
16 with the Controlled Substances Act would have  
17 been part of your responsibilities in this  
18 time frame, right?

19 A. That's correct.

20 Q. Okay. So if the DEA --  
21 Mr. Rannazzisi from the DEA is indicating  
22 here that there's a requirement here, a  
23 regulatory requirement, to avoid filling  
24 suspicious orders of controlled substances,  
25 would that not have fallen within your

1 purview to make sure that McKesson complied  
2 with that portion of the regulations?

3 MR. EPPICH: Object to --  
4 object to the form.

[illegible]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10 QUESTIONS BY MR. BOGLE:

11 Q. Okay. The next paragraph down  
12 says: In a similar vein, given the  
13 requirement under Section 823(e) that a  
14 distributor maintain effective controls  
15 against diversion, a distributor may not  
16 simply rely on the fact that the person  
17 placing the suspicious order is a DEA  
18 registrant and turn a blind eye to the  
19 suspicious circumstances. Again, to maintain  
20 effective controls against diversion as  
21 Section 823(e) requires, the distributor  
22 should exercise due care in confirming the  
23 legitimacy of all orders prior to filling.

24 Do you see that?

25 A. Yes, I see that.

1           Q.       The last sentence I just read  
2       there, what do you understand that to mean?

3                   MR. EPPICH:  Objection to the  
4       form; foundation.

5           A.       I'm not sure what it means.

6       QUESTIONS BY MR. BOGLE:

7           Q.       Okay.  So while you were  
8       working at McKesson after you read this  
9       letter, you were unclear on what was meant by  
10      that last sentence there about confirming the  
11      legitimacy of all orders prior to filling?

12                  MR. EPPICH:  Object to the  
13      form.  Misstates prior testimony.

14          A.       I don't recall what I thought  
15      at that time.

16      QUESTIONS BY MR. BOGLE:

17          Q.       Okay.  But as you read it here  
18      today, you're not sure what is meant by that.  
19      Is that true?

20                  MR. EPPICH:  Same objections.

21          A.       I don't recall.

22      QUESTIONS BY MR. BOGLE:

23          Q.       No.  I'm asking what you think  
24      today.

25          A.       I don't know.



[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11 QUESTIONS BY MR. BOGLE:

12 Q. Okay. Do you recall there  
13 being any meetings with yourself and other  
14 people at the regulatory department at  
15 McKesson to sort of walk through this letter  
16 we're looking at here in Exhibit 3?

17 MR. EPPICH: Object to the  
18 form.

19 A. I really don't recall.

20 QUESTIONS BY MR. BOGLE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[illegible]

19 Q. Okay.

20 MR. EPPICH: Is this a good

21 time to take a break?

22 MR. BOGLE: Sure.

23 THE VIDEOGRAPHER: Off the

24 record at 10:01.

25 (Recess taken, 10:01 a.m. to



1 10:16 a.m.)

2 THE VIDEOGRAPHER: All right,  
3 stand by. The time is 10:16, back on  
4 the record. Beginning of File 2.

5 QUESTIONS BY MR. BOGLE:

6 Q. Mr. Hilliard, I want to go back  
7 just a step here and talk a little bit about  
8 sort of the hierarchy of the regulatory  
9 department while you were at McKesson. So  
10 let's focus on while you were director of  
11 regulatory affairs, which I think you told me  
12 was roughly 1998 to 2016.

13 So during that time frame, as  
14 director of regulatory affairs, who would  
15 have been your superiors in the regulatory  
16 department?

17 A. Dan White, and when I started  
18 in '97 to -- again, I don't remember the  
19 exact time frame, a couple of years; and then  
20 Ron Bone.

21 Q. What was his title?

22 A. SVP, operations.

23 Q. And that's senior vice  
24 president?

25 A. Yes, correct.

1 Q. All right. Of operations?

2 A. Correct.

3 Q. Okay.

4 A. Regulatory rolled up under  
5 that.

6 Q. Okay.

7 A. Don Walker after that. And  
8 then at some point there, Bruce Russell came  
9 in between us and I reported directly to  
10 Bruce instead of Don.

11 Q. Okay.

12 A. And then it was back to Don  
13 directly, and then finally to Krista Peck.

14 Q. What was her job title?

15 A. SVP of regulatory department.

16 QUESTIONS BY MR. BOGLE:

17 Q. Okay.

18 A. That's not the exact -- correct  
19 title, but SVP of regulatory.

20 Q. And again, when you say "SVP,"  
21 it means senior vice president.

22 A. Senior vice president.

23 Q. I just want to make sure the  
24 record is clear. I think I know what you  
25 mean but I want to make sure it's clear.

1                   Okay. Let me ask it to you  
2       this way just so I understand. So at all  
3       times from 1998 to 2016, would there have  
4       only been one position in the regulatory  
5       department higher than yours on the corporate  
6       ladder?

7           A.       No, because at the time point  
8       for which I reported to Bruce Russell, he  
9       would have been a VP, and then Bruce would  
10      have reported to Don, so there would have  
11      been one additional level there.

12          Q.       Okay. So in what time period  
13      would that have been where there was two  
14      levels above yours?

15          A.       I would say 2000, early --  
16      first part of the 2000s. I'm not sure how  
17      far that goes into.

18          Q.       Okay.

19          A.       I don't remember when Bruce  
20      retired.

21          Q.       Okay.

22          A.       I want to say 2014, he retired,  
23      approximately.

24          Q.       Okay. So from this time period  
25      from 1998 to 2016, there were points in time

1       where there's one person, one position higher  
2       than yours in the regulatory department, and  
3       some points in time where there's two  
4       positions higher than yours in the regulatory  
5       department. Am I understanding that right?

6               A.       That's correct.

7               Q.       Okay. So as director of  
8       regulatory affairs, then, from '98 to 2016,  
9       were there positions below yours in the  
10      regulatory department, people that reported  
11      to you?

12              A.       I had one direct report.

13              Q.       Okay. And during what time  
14      period?

15              A.       Approximately 2013 to 2016.

16              Q.       Okay. Who was that?

17              A.       Cynthia. My mind is going  
18      blank on her last name. All she managed was  
19      licensure for our facilities.

20              Q.       Okay. All right. Shifting  
21      gears a little bit, then -- actually, strike  
22      that.

23                      Again, when we started the  
24      deposition, you listed off quite a few  
25      different areas of responsibility that you

1 had over time in the regulatory department.

2 Did you consider each of the areas that you  
3 had responsibility for to be important areas,  
4 important things to you?

5 MR. EPPICH: Object to the  
6 form.

7 A. My job was important to me.

8 QUESTIONS BY MR. BOGLE:

9 Q. Okay. And did you feel that  
10 you had an important job for McKesson  
11 generally, that you held an important role at  
12 the company?

13 MR. EPPICH: Object to the  
14 form.

15 A. In my opinion, I felt worthy  
16 and important to the company.

17 QUESTIONS BY MR. BOGLE:

18 Q. Okay. I guess my question is a  
19 little different. Did you feel like your  
20 position itself was an important position to  
21 the company, that it performed important  
22 functions to the company?

23 MR. EPPICH: Object to the  
24 form.

25 A. In my opinion, I felt it was





[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

17           Q.       Okay. I'm going to hand you  
18           what I'm marking as Exhibit 4, which is  
19           1.1946, and that's MCKMDL00496859.

20                     There you go, sir.

21                     (McKesson-Hilliard Exhibit 4  
22                     was marked for identification.)

23           QUESTIONS BY MR. BOGLE:

[REDACTED]

[REDACTED]



[illegible]





[illegible]

[illegible]

A horizontal bar chart with 20 rows. Each row has a small square marker on the left and a corresponding horizontal bar. The bars vary in length and position, representing percentages. The bars are gray, and the background is white. The chart is enclosed in a black border.

Category	Percentage
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98	98	98	98
99	99	99	99
100	100	100	100



[illegible]

[illegible]

A horizontal bar chart with 20 rows. Each row has a small square marker on the left and a corresponding horizontal bar. The bars vary in length and position, representing percentages. The categories are not explicitly labeled, but the bars represent data points for each category.

Category	Percentage
1	85%
2	85%
3	10%
4	40%
5	20%
6	75%
7	15%
8	50%
9	25%
10	10%
11	45%
12	60%
13	55%
14	30%
15	20%
16	70%
17	50%
18	80%
19	90%
20	60%

1 Q. Okay. And you knew in 2005  
2 that that was part of McKesson's obligations  
3 were to report suspicious orders of  
4 controlled substances when they were -- to  
5 the DEA when they were discovered, right?

6 MR. EPPICH: Object to the  
7 form. Calls for a legal conclusion.

■ ■ ■  
■ ■ ■  
■ ■ ■  
■ ■ ■

12 MR. BOGLE: Okay. Move to  
13 strike as nonresponsive.

14 QUESTIONS BY MR. BOGLE:

15 Q. My question simply was: You  
16 understood at this point in 2005, by  
17 September 2005, that there was an obligation  
18 for McKesson to report suspicious orders to  
19 the DEA when they were discovered. True?

20 MR. EPPICH: Object to the  
21 form. Foundation.

22 A. McKesson did report suspicious  
23 orders to the DEA.

24 QUESTIONS BY MR. BOGLE:

25 Q. Okay.

1 MR. BOGLE: Move to strike as  
2 nonresponsive.

3 QUESTIONS BY MR. BOGLE:

4 Q. My question was simply: You  
5 did have an understanding as of 2005 that  
6 there was an obligation for McKesson to  
7 report suspicious orders to the DEA when they  
8 were discovered. True?

9 MR. EPPICH: Object to the  
10 form; calls for a legal conclusion,  
11 asked and answered.

12 A. We submitted the reports to the  
13 DEA for the controlled substance suspicious  
14 order reports.

15 QUESTIONS BY MR. BOGLE:

16 Q. Okay. And why would you do  
17 that, then?

18 A. That was the agreed reporting  
19 mechanism for the suspicious order that was  
20 created from the Suspicious Order Task Force  
21 that DEA had agreed was the methodology.

22 Q. What time period are you  
23 referring to?

24 A. Approximately '95.

25 Q. Okay. So before you were with

1 the company.

2 A. That's correct.

3 Q. Okay. So you were not a member  
4 of any such task force, right?

5 A. That's correct.

6 Q. Okay. And so anything that you  
7 would know about the task force came to you  
8 from somebody other than yourself, right?  
9 You don't have any firsthand knowledge of  
10 that.

11 MR. EPPICH: Object to the  
12 form.

13 QUESTIONS BY MR. BOGLE:

14 Q. True?

15 A. I was not there.

16 Q. Right. So you don't have any  
17 firsthand knowledge of it, true?

18 MR. EPPICH: Object to the  
19 form.

20 A. I was not at the meeting.

21 QUESTIONS BY MR. BOGLE:

22 Q. Okay. So therefore you could  
23 not have any firsthand knowledge, right?

24 MR. EPPICH: Object to the  
25 form.

1           A.       I was not -- I did not attend  
2       the meeting of the task force.

3       QUESTIONS BY MR. BOGLE:

4           Q.       Okay. Do you know of anyone  
5       from McKesson that did?

6           A.       I don't recall.

7           Q.       Okay. Did you keep any written  
8       documentation from the DEA that would have  
9       come from this task force you're referencing  
10      that says, you know, the DEA -- this is our  
11      stamp of approval that this is the mechanism  
12      that we approved to report suspicious orders?

13                   MR. EPPICH: Objection --

14      QUESTIONS BY MR. BOGLE:

15           Q.       Did you keep a file like that?

16                   MR. EPPICH: Object to the  
17      form.

18           A.       I don't recall if there was a  
19      form associated with the outcome of that  
20      meeting.

21      QUESTIONS BY MR. BOGLE:

22           Q.       Okay. I'm just asking if you  
23      had any sort of documentation that you kept  
24      for yourself to make sure that you felt  
25      comfortable that that was the proper

1 reporting mechanism.

2 MR. EPPICH: Object to the  
3 form. Vague.

4 A. Through my career, whenever I  
5 had information from the DEA, then I would  
6 maintain copies of it.

7 QUESTIONS BY MR. BOGLE:

8 Q. Okay. So if you had any  
9 correspondence from the DEA that said that  
10 this was a reporting mechanism they signed  
11 off on, you would have kept that, right?

12 MR. EPPICH: Object to the  
13 form.

14 A. I wasn't at the meeting, so I  
15 don't have -- I didn't have any documentation  
16 on that, I don't recall having documentation  
17 on that.

18 But as I said, throughout the  
19 course of my career, if I did receive some  
20 type of letter, like an extension to DEA  
21 registrations, then we would maintain that  
22 letter.

23 QUESTIONS BY MR. BOGLE:

24 Q. So let's go to page .10 then.







[illegible]

[illegible]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7 QUESTIONS BY MR. BOGLE:

8 Q. You would agree with me that  
9 the primary responsibility for investigating  
10 suspicious orders or suspicious customers or  
11 suspicious activity for a customer falls on  
12 McKesson, right? For any product it's  
13 selling.

14 MR. EPPICH: Object to the  
15 form; foundation. Calls for a legal  
16 conclusion.

17 A. Okay. Restate the question.

18 QUESTIONS BY MR. BOGLE:

19 Q. Sure.

20 You would agree the primary  
21 responsibility for investigating suspicious  
22 orders or suspicious activity of a customer  
23 of McKesson's falls primarily on McKesson,  
24 right?

25 MR. EPPICH: Object to the



■ [REDACTED]

■ [REDACTED]

3 QUESTIONS BY MR. BOGLE:

4 Q. Yeah, I guess I'm asking the  
5 question a little differently than that,  
6 though. What I'm asking is: When you came  
7 to work every day from 1997 to 2016 and were  
8 director of regulatory affairs at McKesson,  
9 with what you've said is an important job,  
10 did you take that job to mean that the  
11 primary responsibility for making sure that  
12 suspicious orders didn't go out to customers  
13 fell on McKesson as opposed to somebody else?

14 MR. EPPICH: Object to the form  
15 to the extent it calls for a legal  
16 conclusion.

17 A. I don't recall what I thought  
18 when I walked into the office each day.

19 QUESTIONS BY MR. BOGLE:

20 Q. Okay. Do you ever recall a day  
21 at work where you sat down and said, "I've  
22 got to make sure, as director of regulatory  
23 affairs, that suspicious orders do not go to  
24 customers from McKesson when it comes to  
25 controlled substances"?





[illegible]



A horizontal bar chart with 25 rows. Each row has a small square on the left and a corresponding horizontal bar. The bars vary in length and position, representing percentages. The bars are gray, and the background is white. The chart is enclosed in a black border.

Category	Percentage
1	45%
2	65%
3	40%
4	55%
5	45%
6	45%
7	55%
8	60%
9	85%
10	80%
11	80%
12	55%
13	55%
14	25%
15	60%
16	45%
17	55%
18	85%
19	80%
20	75%
21	35%
22	55%
23	25%
24	60%
25	70%

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

10 QUESTIONS BY MR. BOGLE:

11 Q. Okay. I'm going to hand you  
12 what I'm marking as Exhibit 5, which is  
13 1.1789, and that's MCKMDL00496876.

14 (McKesson-Hilliard Exhibit 5  
15 was marked for identification.)

16 QUESTIONS BY MR. BOGLE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

18 Q. Who is Mr. Gilbert?

19 A. Outside counsel.

20 Q. So he's you guys' lawyer,  
21 right?

22 A. Correct.

[REDACTED]

[REDACTED]

[REDACTED]



[illegible]



[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6 Q. So having a DEA registration  
7 surrendered or having an Order to Show Cause  
8 brought against a distribution center, those  
9 are serious enforcement actions, right?

10 MR. EPPICH: Object to the  
11 form.

12 A. They are serious.

13 QUESTIONS BY MR. BOGLE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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A horizontal bar chart with 25 rows. Each row contains a small square icon on the left and a gray horizontal bar. The bars vary in length and position, with some spanning the full width and others being shorter or offset.





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[REDACTED]

[REDACTED]

16 MR. BOGLE: Let me get my  
17 copies here, sorry. Slight delay.  
18 I'm emptying boxes.

19 MR. EPPICH: I'm going to stand  
20 up for this one.

21 QUESTIONS BY MR. BOGLE:

22 Q. All right. I'm handing you  
23 what I'm marking as Exhibit 6, which is  
24 1.1943, MCKMDL00496306.

25 (McKesson-Hilliard Exhibit 6

1 was marked for identification.)

2 QUESTIONS BY MR. BOGLE:

[illegible]

[illegible]

[illegible]

[illegible]



[illegible]



[illegible]

[illegible]

A horizontal bar chart with 20 rows. Each row has a small square marker on the left and a corresponding horizontal bar. The bars vary in length and position, representing percentages. The categories are not explicitly labeled, but the bars represent data points for each category.

Category	Percentage
1	85%
2	55%
3	40%
4	30%
5	75%
6	45%
7	50%
8	80%
9	70%
10	40%
11	65%
12	55%
13	35%
14	60%
15	90%
16	25%
17	50%
18	75%
19	85%
20	45%

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[REDACTED]

20 MR. EPPICH: Hold on. Hold on.

21 Let me pause here. I'd just caution

22 the witness that if this question is

23 seeking anything that's any

24 discussions or conferences with

25 counsel, that those would be



1 privileged discussions and I'd  
2 instruct the witness not to answer.

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes the need for transparency and accountability in financial reporting.

2. The second part of the document outlines the various methods used to collect and analyze data. It includes a detailed description of the sampling process and the statistical techniques employed.

3. The third part of the document presents the results of the study. It includes a series of tables and graphs that illustrate the findings of the research.

4. The fourth part of the document discusses the implications of the findings for policy and practice. It highlights the need for further research and the potential for future studies.

5. The fifth part of the document provides a conclusion and a summary of the key findings. It also includes a list of references and a bibliography.

6. The sixth part of the document contains a list of appendices and a glossary of terms. It also includes a list of figures and a list of tables.

7. The seventh part of the document contains a list of footnotes and a list of references. It also includes a list of figures and a list of tables.

8. The eighth part of the document contains a list of footnotes and a list of references. It also includes a list of figures and a list of tables.

9. The ninth part of the document contains a list of footnotes and a list of references. It also includes a list of figures and a list of tables.

10. The tenth part of the document contains a list of footnotes and a list of references. It also includes a list of figures and a list of tables.

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The diagram consists of 25 horizontal bars of varying lengths and positions, arranged in a sequence from top to bottom. The bars are colored in a light gray color. The sequence of bars is as follows:

- Bar 1: Starts at the left edge, ends at approximately 80% width.
- Bar 2: Starts at the left edge, ends at approximately 80% width.
- Bar 3: Starts at the left edge, ends at approximately 80% width.
- Bar 4: Starts at the left edge, ends at approximately 70% width.
- Bar 5: Starts at the left edge, ends at approximately 95% width.
- Bar 6: Starts at the left edge, ends at approximately 15% width.
- Bar 7: Starts at approximately 30% width, ends at approximately 50% width.
- Bar 8: Starts at approximately 55% width, ends at approximately 70% width.
- Bar 9: Starts at the left edge, ends at approximately 45% width.
- Bar 10: Starts at approximately 15% width, ends at approximately 70% width.
- Bar 11: Starts at the left edge, ends at approximately 25% width.
- Bar 12: Starts at approximately 30% width, ends at approximately 50% width.
- Bar 13: Starts at approximately 55% width, ends at approximately 80% width.
- Bar 14: Starts at approximately 20% width, ends at approximately 60% width.
- Bar 15: Starts at approximately 15% width, ends at approximately 75% width.
- Bar 16: Starts at approximately 75% width, ends at approximately 85% width.
- Bar 17: Starts at the left edge, ends at approximately 70% width.
- Bar 18: Starts at the left edge, ends at approximately 80% width.
- Bar 19: Starts at the left edge, ends at approximately 45% width.
- Bar 20: Starts at approximately 15% width, ends at approximately 25% width.
- Bar 21: Starts at approximately 30% width, ends at approximately 40% width.
- Bar 22: Starts at approximately 45% width, ends at approximately 70% width.
- Bar 23: Starts at the left edge, ends at approximately 80% width.
- Bar 24: Starts at the left edge, ends at approximately 85% width.
- Bar 25: Starts at the left edge, ends at approximately 85% width.
- Bar 26: Starts at the left edge, ends at approximately 75% width.
- Bar 27: Starts at the left edge, ends at approximately 80% width.
- Bar 28: Starts at the left edge, ends at approximately 85% width.
- Bar 29: Starts at the left edge, ends at approximately 40% width.
- Bar 30: Starts at approximately 30% width, ends at approximately 50% width.
- Bar 31: Starts at approximately 55% width, ends at approximately 80% width.







[illegible]

[REDACTED]

19 QUESTIONS BY MR. BOGLE:

20 Q. Okay. Let's look at  
21 Exhibit 1.1947, which is Exhibit 7 to your  
22 deposition, and that's MCKMDL00497154.

23 (McKesson-Hilliard Exhibit 7  
24 was marked for identification.)

25 --oOo--

1 QUESTIONS BY MR. BOGLE:

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Highly Confidential - Subject to Further Confidentiality Review

[REDACTED]

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[REDACTED]

13 1.1951, Bates number is MCKMDL00496536.

14 THE REPORTER: 10?

15 MR. BOGLE: Did I skip one?

16 I'm sorry, let me get that number  
17 back. I may have skipped -- missing  
18 some stickers here. Oh, I buried it.  
19 Okay. Sorry.

20 (McKesson-Hilliard Exhibit 8  
21 was marked for identification.)

22 QUESTIONS BY MR. BOGLE:

23 Q. So it's actually Exhibit 8 is  
24 Exhibit 1.1951, so correcting the number.  
25 Same document, just correcting the exhibit

1 number.

1



[illegible]

[illegible]

[illegible]

█ [REDACTED]

2 MR. EPPICH: Objection. I  
3 think that we are now on the edge of  
4 seeking attorney-client  
5 communications.

6 MR. BOGLE: I'm just asking him  
7 whether the communication occurred,  
8 not the substance of it.

9 QUESTIONS BY MR. BOGLE:

█ █ [REDACTED]

█ [REDACTED] [REDACTED]

█ [REDACTED]

█ █ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED] [REDACTED]

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[REDACTED]

9 MR. EPPICH: I'm going to  
10 instruct the witness not to answer  
11 that question. You're treading on  
12 that line again. You may ask him if  
13 he had a communication with his  
14 counsel about the document.

15 MR. BOGLE: I think that's what  
16 I just asked.

17 MR. EPPICH: No, you stepped  
18 over the line.

19 QUESTIONS BY MR. BOGLE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[illegible]



[illegible]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

9 MR. EPPICH: Brandon, let's go  
10 ahead and take a break.

11 MR. BOGLE: Okay.

12 THE VIDEOGRAPHER: Off the  
13 record at 11:34.

14 (Recess taken, 11:34 a.m. to  
15 11:45 a.m.)

16 THE VIDEOGRAPHER: All right,  
17 stand by. The time is 11:45, back on  
18 the record. Beginning of File 3.

19 QUESTIONS BY MR. BOGLE:

20 Q. All right, Mr. Hilliard, I want  
21 to shift gears to a different topic here with  
22 you. We talked a little bit earlier just  
23 briefly about the DU45 report.

24 Do you recall that discussion  
25 generally?

1 A. Yes.

2 Q. Okay. And also talked a little  
3 bit about Section 55 generally.

4 Do you recall that discussion?

5 A. Yes.

6 Q. Okay. So Section 55 was the  
7 standard operating procedure that was in  
8 place when you joined McKesson that was meant  
9 to be the Suspicious Order Monitoring Program  
10 for the company. True?

11 MR. EPPICH: Object to the  
12 form.

13 A. There was a section within  
14 Section 55 that contained that type of  
15 information.

16 QUESTIONS BY MR. BOGLE:

17 Q. Okay. So it was included  
18 within Section 55. True?

19 A. Correct.

20 Q. Okay. I think you told me, I  
21 just want to make sure I understand. When  
22 you joined the company in 1997, Section 55,  
23 and specifically the components with the  
24 suspicious order monitoring provisions, were  
25 already in place. True?

1           A.       Correct.

2           Q.       Okay. And the DU45 was one of  
3       the reports listed in Section 55 that would  
4       be produced and submitted to the DEA,  
5       correct?

6           A.       That's correct.

7           Q.       Okay. I'll take a look at a  
8       few components of Section 55 here. So I'm  
9       going to hand you what I'm marking as  
10      Exhibit 9, which is 1.1555. The Bates number  
11      is MCKMDL00346554.

12                   (McKesson-Hilliard Exhibit 9  
13           was marked for identification.)

14      QUESTIONS BY MR. BOGLE:

15           Q.       When I read all those Bates  
16      numbers, you can ignore me. I'm supposed to  
17      do that, unfortunately. I won't be asking  
18      you Bates number quizzes, I can promise you  
19      that.

20           A.       Thank you.

21           Q.       Okay. What I've handed you  
22      here is the Drug Operations Manual,  
23      Section 55, dated July 2000, correct?

24           A.       That is correct.

25           Q.       Okay. And again, I think you

1       said this, but you're familiar with this  
2       manual, correct?

3             A.       Yes, I am.

4             Q.       All right. Let's go to -- ah  
5       jeez, wrong page number. Page .29. Sorry.

6             A.       I'm sorry, repeat that?

7             Q.       .29?

8             A.       .29.

9             Q.       Yes, sir.

10            Okay. On this page, you see  
11       there's a section (c) titled Daily Controlled  
12       Substance Suspicious Order Warning Report,  
13       and then it's listed a bunch of other stuff,  
14       but including DU45L500.

15                    Do you see that?

16             A.       Yes, I see that.

17             Q.       Okay. So this section here  
18       talks about the daily version of the DU45  
19       report. True?

20             A.       Yes.

21             Q.       Okay. And if you go down to  
22       the next paragraph, it says: The same  
23       factors that are used for the Customer Recap  
24       Variance -- and then it gives a description  
25       of the report -- are also used for the Daily

1       Controlled Substance Suspicious Order Warning  
2       Report.

3                       Then it says: 3X monthly  
4       average for Schedule II and Schedule III  
5       reportables and 8X/monthly averages for  
6       IIIN-V.

7                       Do you see that?

8               A.       Yes, I see that.

9               Q.       Okay. So I want to break that  
10       down and make sure it's clear on what that  
11       means. So both for the DU45 reports run  
12       daily and monthly, an order would appear on  
13       the report for any controlled substance  
14       that's in Schedule II or Schedule III if the  
15       order was three times the average for  
16       customers of McKesson for that product.  
17       True?

18                      MR. EPPICH: Object to the  
19       form.

20              A.       It was three times the monthly  
21       average for 12-month sales and it was for  
22       Schedule II and III narcotics.

23       QUESTIONS BY MR. BOGLE:

24              Q.       Okay. So included within that  
25       would be opioids, right?

1           A.       Correct.

2           Q.       Okay. So you said a 12-month  
3       history, so let's talk about how that worked.  
4       Was it a 12-month same customer history that  
5       this number would be derived from?

6           A.       Yes, that's correct.

7           Q.       Okay. So, for example, you  
8       would look at the 12 months for X pharmacy,  
9       the prior 12 months, and you would do what  
10      with that data to determine how the three  
11      times average would be generated?

12                   MR. EPPICH: Object to the  
13      form; foundation.

14      QUESTIONS BY MR. BOGLE:

15           Q.       Walk me through that process.

16           A.       The system is taking 12 months'  
17      worth of sales history based on that item and  
18      then adds a factor of three times, I'm sorry,  
19      three times the average, and if the orders  
20      exceed that threshold then it shows up on the  
21      report.

22           Q.       Okay. And so an average is  
23      generated from the prior 12 months. Does  
24      that roll over every month so it's looking at  
25      a new 12-month period?



1 MR. EPPICH: Object to the  
2 form.

3 A. As I recall, it's a rolling  
4 12-month period.

5 QUESTIONS BY MR. BOGLE:

6 Q. Right. So we'll walk through  
7 this just to make sure it's clear. So let's  
8 say, for example, we're in February 2007.  
9 The prior 12 months' data that would be  
10 looked at for February 2007 would be the 12  
11 months prior to that month. True?

12 A. Correct.

13 Q. Okay. So, for example, when  
14 you go to March 2007, that would then include  
15 the February 2007 data and the first month  
16 from the prior 12 months would drop off the  
17 analysis. True?

18 A. I believe that to be correct.

19 Q. Okay. So if a customer's  
20 orders for a given month did not exceed three  
21 times their prior 12-month average, they  
22 would not appear on the DU45 report. True?

23 A. That's correct.

24 Q. Okay. Were there any other  
25 calculations that went into the DU45 report

1 other than the prior 12 months' average and  
2 looking at three times that average, if it  
3 hits that, it gets kicked to the report? Any  
4 other variables?

5 MR. EPPICH: Object to the  
6 form.

7 A. Not to my knowledge.

8 QUESTIONS BY MR. BOGLE:

9 Q. Okay. All right. I want to  
10 look at a DU45 report that was produced to  
11 us. You may want to keep this exhibit kind  
12 of just near you, but I want to look at a  
13 sample DU45 with you.

14 All right. I'm going to hand  
15 you what I'm marking as Exhibit 10, which is  
16 1.2100. Bates number is MCKMDL00660789.

17 (McKesson-Hilliard Exhibit 10  
18 was marked for identification.)

19 QUESTIONS BY MR. BOGLE:

20 Q. Here's your version. I  
21 shouldn't say "version," they're all the  
22 same, but your copy. It's beefy.

23 Okay. And what I've handed  
24 you, Mr. Hilliard, I'll represent to you was  
25 produced to us as part of this litigation as

1 being a DU45 report from -- I believe it's  
2 the Oklahoma City distribution center. I  
3 think you can determine that on the second  
4 page of the document, that that's the  
5 distribution center this pertains to. Let me  
6 know if you disagree with that.

7 A. Yes. This does appear to come  
8 from the Oklahoma City distribution center.

9 Q. Okay. And going back to the  
10 first page, this is noted to be a monthly  
11 report that I'm showing you here, right?

12 A. That is correct.

13 Q. Okay. And it's dated  
14 April 3rd, 2007. That's the date on the  
15 first page, right?

16 A. That's what's stated on the  
17 first page.

18 Q. Okay. So you obviously have an  
19 understanding and knowledge of DU45 reports.  
20 Is what I'm showing you here consistent with  
21 what a DU45 report would look like, a monthly  
22 report?

23 A. Yes.

24 Q. Okay. Now, these would -- so  
25 this would be submitted to the DEA on a

1 monthly basis, correct? This version.

2 A. That's correct.

3 MR. EPPICH: Object to the  
4 form.

5 QUESTIONS BY MR. BOGLE:

6 Q. And just looking, for example,  
7 at a few of these pages, I'm looking at the  
8 second page, which is Bates ending 0790,  
9 there's three fentanyl orders listed here for  
10 this customer, right?

11 MR. EPPICH: Objection,  
12 foundation.

13 A. Fentanyl is listed here, yes.

14 QUESTIONS BY MR. BOGLE:

15 Q. Okay. Fentanyl being an opioid  
16 product, right?

17 MR. EPPICH: Objection,  
18 foundation.

19 A. Yes, it is.

20 QUESTIONS BY MR. BOGLE:

21 Q. Okay. And go to the next page,  
22 for example, there's an order listed for this  
23 customer for oxycodone, an oxycodone  
24 combination product, right?

25 A. That's what's stated, yes.

1 Q. Okay. Again, another opioid,  
2 right?

3 A. Yes, that's correct.

4 Q. Okay. If you flip over to the  
5 next page, Bates page ending 0792, there are  
6 what I count to be 11 separate orders here  
7 for this customer, again, all for various  
8 opioid products, right?

9 MR. EPPICH: Objection,  
10 foundation.

11 A. That is what's listed here.

12 QUESTIONS BY MR. BOGLE:

13 Q. Okay. And I'm not going  
14 through every page here, but just one more  
15 just to show you.

16 Page 0793, for this customer,  
17 there are -- looks like nine different orders  
18 for either hydrocodone or oxycodone listed  
19 here, right?

20 A. That is what's listed.

21 Q. Okay. And so what's listed in  
22 this report, for example, at this time  
23 period, April 2007, would have been orders  
24 that were placed by a customer, filled by  
25 McKesson, and then appeared on this report

1       thereafter and sent to the DEA, right?

2                   MR. EPPICH: Object to the  
3                   form. Calls for speculation.

4                   A.       That would have been the  
5       process.

6       QUESTIONS BY MR. BOGLE:

7                   Q.       Right. Because these are all  
8       sales. This product was provided to the  
9       customers, right? Everything listed in this  
10      report.

11                   MR. EPPICH: Object to the  
12                   form, the characterization.

13                   A.       That is my recollection.

14      QUESTIONS BY MR. BOGLE:

15                   Q.       Right. So the DU45 report is  
16      listing sales, not just the order prior to  
17      the sale, right?

18                   MR. EPPICH: Object to the  
19                   form, characterization.

20                   A.       My recollection is it contains  
21      the sales.

22      QUESTIONS BY MR. BOGLE:

23                   Q.       Right. And, for example, if  
24      you see on 0793 in the left-hand column,  
25      there's actually invoice numbers and invoice

1       dates for each of these, right?

2               A.       Yes, there is.

3               Q.       And you invoice at the time of  
4       sale, right?

5                       MR. EPPICH:  Objection;  
6               foundation, calls for speculation.

7               A.       I don't recall if it was the  
8       time of sale or date of shipment.

9       QUESTIONS BY MR. BOGLE:

10              Q.       Or of shipment, okay.

11              A.       Shipment date.

12              Q.       All right.  So, for example,  
13       what we've got here as Exhibit 10 is, I  
14       believe, about 600-plus pages of what  
15       McKesson deemed for this month to be  
16       suspicious Schedule II or Schedule III  
17       controlled substance orders, right?

18                     MR. EPPICH:  Objection to the  
19       form.

20              A.       These are what showed up on our  
21       suspicious order report as -- and then  
22       reported to the DEA.

23       QUESTIONS BY MR. BOGLE:

24              Q.       Right.  But what the whole  
25       purpose of this was, you're providing 600 --

1 in this instance, 600-plus pages to the DEA  
2 for this month of suspicious controlled  
3 substance sales that McKesson had made from  
4 the prior month, right?

5 MR. EPPICH: Objection to the  
6 form and the characterization.

7 A. They were submitted for DEA to  
8 review. The report is titled "suspicious"  
9 but it's orders that need to be reviewed and  
10 they were supplied to DEA for review.

11 QUESTIONS BY MR. BOGLE:

12 Q. Okay. So let me make sure I  
13 understand that. So when these reports would  
14 have been submitted to the DEA, it was not  
15 the intent of the regulatory department for  
16 the conclusion to be drawn that McKesson  
17 believed these were suspicious orders. Is  
18 that true?

19 MR. EPPICH: Object to the  
20 form; calls for speculation.

21 A. This was part of the Suspicious  
22 Order Task Force. This was the format for  
23 which industry came to the conclusion to  
24 provide this information to the DEA and DEA  
25 was good with it. There was DEA inspections



1       that had occurred in our facilities and there  
2       was never an issue with that. So this is the  
3       format for which the original documentation  
4       was supplied to DEA.

5                   MR. BOGLE: I move to strike as  
6       nonresponsive.

7       QUESTIONS BY MR. BOGLE:

8           Q.       My question was simply that  
9       during the time that you were with McKesson  
10      in the regulatory department, was it your  
11      understanding that the intent was when a DU45  
12      report like the one we're looking at here was  
13      supplied to the DEA, was that -- was that  
14      intended to or not intended to be what  
15      McKesson deemed to be suspicious orders from  
16      the prior month?

17                  MR. EPPICH: Object to the  
18      form. It calls for speculation; asked  
19      and answered.

20          A.       Yeah. Again, it was -- this is  
21      what needed to be reviewed. This was not  
22      specifically a suspicious order.

23      QUESTIONS BY MR. BOGLE:

24          Q.       Okay. So the view during this  
25      time period when DU45s were used were that

1       this is not specifically a suspicious order  
2       report. Am I understanding you right?

3                   MR. EPPICH: Object to the  
4                   form. Misstates prior testimony.

5       QUESTIONS BY MR. BOGLE:

6               Q.       If I'm misstating it, let me  
7       know. I'm trying to understand.

8               A.       The title was Suspicious Order  
9       Report or Suspicious Purchase Report, but  
10      this -- with the vast quantity of orders that  
11      are conducted on a daily and nightly basis,  
12      this provides a threshold for which to  
13      review.

14                   And so reviews would be  
15      conducted nightly on the reports and they'd  
16      be flagged and then submitted to the DEA, and  
17      then the report in its entirety would be  
18      provided to the DEA on a monthly basis. So  
19      they would have all this information.

20              Q.       Right. I'm asking about from  
21      McKesson's perspective, though, not DEA's  
22      perspective. So from McKesson's perspective  
23      as you understood it in the regulatory  
24      department -- strike that, let me make it  
25      even easier.



[illegible]

[illegible]

A horizontal bar chart with 25 rows. Each row features a small gray square on the left and a gray bar of varying length. The bars are distributed across the width of the chart, with some rows having multiple bars. The bars are gray and the background is white.

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[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 QUESTIONS BY MR. BOGLE:

13 Q. Okay.

14 (McKesson-Hilliard Exhibit 11  
15 was marked for identification.)

16 QUESTIONS BY MR. BOGLE:

17 Q. I'm going to hand you what I'm  
18 marking as Exhibit 1.1823, which is  
19 Exhibit 11 to your deposition, and that's

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

25 Q. And you would have been a

1 member of HDMA at this point in time, right?

2           A.       I was a member during this  
3       time.

4 Q. Okay. What does HDMA stand  
5 for?

6           A.       Healthcare Distribution  
7       Management Association.

8 Q. And again, that was y'all's  
9 trade association, right?

10           A.       That's correct.

\_\_\_\_\_

\_\_\_\_\_

Response	Percentage
Yes, the current president is a threat to the country	85%
No, the current president is not a threat to the country	15%

Government	Percentage
Current government	75%
Previous government	25%

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[illegible]

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[illegible]

[illegible]

█ [REDACTED]

█ [REDACTED] █ [REDACTED]

3 Q. Okay. I'll hand you what I'm  
4 marking as Exhibit 12, which is 1.1667, and  
5 that's MCKMDL00510747.

6 (McKesson-Hilliard Exhibit 12  
7 was marked for identification.)

8 QUESTIONS BY MR. BOGLE:

9 Q. All right. And we're going to  
10 walk through from back to front here, but  
11 just starting at the front, you see that top  
12 e-mail there is one that you're copied on,  
13 right?

14 A. Yes, I am copied on it.

15 Q. And you understand sort of how  
16 e-mails work; once you appear on this e-mail,  
17 the ones prior to it, you would also have  
18 been able to view, right?

19 A. Okay.

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█ [REDACTED] [REDACTED] [REDACTED]

█ [REDACTED]

█ [REDACTED] [REDACTED]

█ [REDACTED]

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[illegible]

[illegible]



█ [REDACTED]

2 QUESTIONS BY MR. BOGLE:

3 Q. Yeah. I'm just asking whether  
4 you agree or disagree that simply reporting  
5 larger-than-usual orders does not meet the  
6 spirit and letter of the suspicious order  
7 reporting regulation. Agree or disagree?

8 MR. EPPICH: Object to the  
9 form; asked and answered.

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[REDACTED]

11 QUESTIONS BY MR. BOGLE:

12 Q. Okay. Well, do you want to  
13 look at the -- I'm happy to give you whatever  
14 time you need to look at the full e-mail  
15 chain. I'm not trying to take anything out  
16 of context for you here. Feel free. Let's  
17 do that.

18 Let's take -- take a minute.  
19 It's, I think, seven pages or eight pages --  
20 six pages. Let me know when you're done  
21 reading the six pages, but that's my question  
22 that I'm going to ask you again. Let me know  
23 when you're ready.

24 (Document review by witness.)

25 A. Restate your question.

1 QUESTIONS BY MR. BOGLE:

\_\_\_\_\_

\_\_\_\_\_

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Age Group	Percentage
18-24	10%
25-34	25%
35-44	30%
45-54	20%
55-64	10%
65-74	5%
75-84	5%
85+	5%

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20 MR. BOGLE: Move to strike as

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21      nonresponsive.
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22 QUESTIONS BY MR. BOGLE:

23 Q. Let me reask my question

24 because I think it's very straightforward.

25                   My question is, simply: Do you

1       agree or disagree that, standing alone,  
2       providing a report that simply lists  
3       larger-than-usual orders does not comply with  
4       the suspicious order reporting requirements  
5       of the Controlled Substances Act?

6                       MR. EPPICH: Object to the  
7               form.

8       QUESTIONS BY MR. BOGLE:

9               Q.       I'm not asking about additional  
10       stuff. I'm asking whether you think that  
11       alone is good enough to meet that regulation.  
12       Yes or no?

13                      MR. EPPICH: Object to form;  
14               asked and answered, calls for a legal  
15               conclusion.

16       QUESTIONS BY MR. BOGLE:

17               Q.       We'll talk about the rest of it  
18       later, I promise you.

19                      MR. EPPICH: He's answered this  
20               question three times now.

21                      MR. BOGLE: He hasn't come  
22               close. I mean, I'd love it if he had.

23                      MR. EPPICH: You're looking for  
24               a yes-or-no answer. He's given you  
25               the answer. It may not be the answer



[illegible]

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[illegible]



█ [REDACTED]

2 MR. BOGLE: Okay. I'm going to  
3 something else, so if you want to take  
4 it now or I can plug along if you  
5 want.

6 MR. EPPICH: That's fine, let's  
7 take a lunch.

8 THE VIDEOGRAPHER: Off the  
9 record at 12:31.

10 (Recess taken, 12:31 p.m. to  
11 1:17 p.m.)

12 THE VIDEOGRAPHER: Stand by.  
13 The time is 1:17 p.m. Back on the  
14 record, beginning of File 4.

15 QUESTIONS BY MR. BOGLE:

█ [REDACTED] █ [REDACTED] █ [REDACTED]  
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[REDACTED]

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[REDACTED]

16 QUESTIONS BY MR. BOGLE:

17 Q. Okay. And you're aware that  
18 occurred, right? That a settlement occurred  
19 in 2008?

20 A. Yes, I am.

21 Q. Okay. And you're aware that  
22 settlement pertained to allegations from the  
23 DEA that McKesson violated the Controlled  
24 Substances Act in distributing opioids from  
25 several of its distribution centers, right?

1 A. Correct.

2 Q. Okay. Have you seen the  
3 settlement agreement itself?

4 A. I have seen it at one time.

5 Q. Okay. All right. I'm going to  
6 hand you what I'm marking as Exhibit 13,  
7 which is also 1.889, and that's  
8 MCKMDL00337001.

9 (McKesson-Hilliard Exhibit 13  
10 was marked for identification.)

11 QUESTIONS BY MR. BOGLE:

12 Q. Here you go, sir.

13 Okay. What I've just handed  
14 you, Mr. Hilliard, as Exhibit 13 is titled at  
15 the top Settlement and Release Agreement and  
16 Administrative Memorandum Agreement dated in  
17 the first paragraph May 2nd, 2008.

18 Do you see that?

19 A. Yes, I see that.

20 Q. Okay. And do you recognize  
21 this to be the settlement agreement we just  
22 referenced from 2008?

23 A. Yes.

24 Q. Okay. And if we'd go  
25 specifically to -- let's see, my page numbers

1 are different here. There's an Appendix B  
2 about halfway through the document that  
3 starts the actual settlement agreement. Do  
4 you see where I'm at there? Sorry, my page  
5 numbers don't match yours on this so I can't  
6 give you a specific number. I'm sorry, I  
7 would if I could. For reason -- but that's  
8 what the page looks like right there.

9 MR. EPPICH: I think it's on  
10 Bates 337012.

11 QUESTIONS BY MR. BOGLE:

12 Q. It says Appendix B at the top  
13 left, Settlement Agreement at the top middle.

14 See where I'm at?

15 A. Found it.

16 Q. All right. So this starts the  
17 actual settlement agreement itself. So I  
18 want to go to the next page that talks about  
19 the covered conduct in the agreement, which  
20 is number 8 in the middle of the page.

21 Do you see where I'm at?

22 A. Yes, I do.

23 Q. Okay. And A there says:

24 Within the District of Maryland: From  
25 January 2005 through October 2006,

1 McKesson-Landover sold approximately  
2 3 million dosage units of hydrocodone to  
3 NewCare Pharmacy in Baltimore, and failed to  
4 report these sales as suspicious orders to  
5 DEA when discovered, as required by and in  
6 violation of -- and then it lists the C.F.R.  
7 and the U.S.C.

8 And then it says: Further,  
9 from August 2006 to February 2007,  
10 McKesson-Landover sold large quantities of  
11 phentermine-based products to Smeeta Pharmacy  
12 in Highland, Maryland, and failed to report  
13 these sales as suspicious orders to DEA when  
14 discovered, as required by and in violation  
15 of -- and again it lists the statutes.

16 Do you see where I'm reading  
17 there?

18 A. I see that.

■ ■ ■ ■ ■  
■ ■ ■ ■ ■  
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23 Q. Okay. Then if you see in  
24 section B, and I wasn't going to read this  
25 whole section but you can look at it here for

1       yourself, this talks about the conduct that  
2       we actually covered for the seven  
3       pharmacies -- seven Florida pharmacies that  
4       were handled by the Lakeland distribution  
5       center, right?

6             A.       Yes. It's listed here.

7             Q.       And that's the same conduct we  
8       talked about before, right? That's what they  
9       discuss here.

10            A.       Yes.

11            Q.       Okay. And then in letter C:  
12       Within the Southern District of Texas, it  
13       says: From February to September 2007,  
14       McKesson-Conroe sold approximately 2.6  
15       million dosage units of hydrocodone to  
16       Mercury Drive Pharmacy and Maswoswe's  
17       Alternative Pharmacy and failed to report  
18       these sales as suspicious orders to DEA when  
19       discovered, as required by and in violation  
20       of -- and again it lists the statutes.

21                    You see that there?

22            A.       I see that.

23            Q.       And on the next page, it  
24       continues with letters D, E and F. Letters D  
25       involve allegations of large quantities of

1 hydrocodone sent to three Colorado pharmacies  
2 out of the McKesson-Aurora distribution  
3 center from September 2005 to November 2007,  
4 right?

5 A. I see that.

6 Q. E involves McKesson-Salt Lake  
7 and distribution of 824,000 units of  
8 hydrocodone, oxycodone, fentanyl and  
9 methadone to the Blackfeet Clinic in  
10 Browning, Montana from January 2005 to  
11 October 2007.

12 Do you see that?

13 A. I see that.

14 Q. Okay. And then finally, there  
15 is, from McKesson-West Sacramento,  
16 allegations of theft or significant loss of  
17 controlled substances on 28 separate  
18 occasions that were not reported timely to  
19 the DEA.

20 Do you see that?

21 A. I see that.

22 Q. Okay. And you know that for  
23 this covered conduct, there was a fine paid  
24 of \$13.25 million by McKesson, right?

25 A. Correct.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

11 QUESTIONS BY MR. BOGLE:

12 Q. Okay. We'll take a look at a  
13 few things related to the LDMP -- you're okay  
14 with me calling it LDMP?

15 A. Please.

16 Q. Okay. I think we're talking  
17 about the same thing there.

18 All right. So I'm going to  
19 hand you what I'm marking as Exhibit 1.1830,  
20 which is Exhibit 14 to your deposition, and  
21 that is, for those keeping track of these  
22 things, MCKMDL00403340.

23 (McKesson-Hilliard Exhibit 14  
24 was marked for identification.)

25 --oOo--



1 QUESTIONS BY MR. BOGLE:

2           Q.       There's yours, sir, and there's  
3       yours.

[illegible]

[illegible]

[illegible]



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[illegible]





[illegible]

22 Q. Okay. You were actually  
23 involved in auditing the Lifestyle Drug  
24 Monitoring Program in 2007, right?

25           A.       I don't recall specifically



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A horizontal bar chart with 20 rows. Each row has a small square icon on the left and a corresponding horizontal bar. The bars vary in length and position, representing different percentages. The categories are not explicitly labeled, but the bars represent the following approximate percentages: 45%, 25%, 75%, 60%, 30%, 15%, 80%, 20%, 50%, 35%, 90%, 100%, 95%, 90%, 85%, 15%, 70%, 65%, 75%, and 55%.

Category	Percentage
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3	75%
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5	30%
6	15%
7	80%
8	20%
9	50%
10	35%
11	90%
12	100%
13	95%
14	90%
15	85%
16	15%
17	70%
18	65%
19	75%
20	55%

Category	Percentage
1. Very satisfied	10%
2. Satisfied	25%
3. Dissatisfied	35%
4. Very dissatisfied	20%
5. Don't know	10%
6. Not applicable	5%
7. Not a priority	15%
8. Not a problem	10%
9. Not a concern	15%
10. Not a threat	10%
11. Not a risk	15%
12. Not a challenge	10%
13. Not an opportunity	15%
14. Not a benefit	10%
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A horizontal bar chart with 20 rows. Each row has a small square icon on the left and a corresponding horizontal bar. The bars vary in length and position, representing different percentages. The categories are not explicitly labeled, but the bars represent the following approximate percentages: 95%, 90%, 10%, 85%, 80%, 75%, 70%, 65%, 60%, 55%, 50%, 45%, 40%, 35%, 30%, 25%, 20%, 15%, 10%, and 5%.

Category	Percentage
1	95%
2	90%
3	10%
4	85%
5	80%
6	75%
7	70%
8	65%
9	60%
10	55%
11	50%
12	45%
13	40%
14	35%
15	30%
16	25%
17	20%
18	15%
19	10%
20	5%

[illegible]

[illegible]

[illegible]

20     you Exhibit 1.1913, also marked as  
21     Exhibit 16.

22 (McKesson-Hilliard Exhibit 16  
23 was marked for identification.)

24 QUESTIONS BY MR. BOGLE:

\_\_\_\_\_

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 MR. LOMBARDO: Excuse me, does  
13 this exhibit have a Bates number?

14 MR. BOGLE: MCKMDL00591841.

15 QUESTIONS BY MR. BOGLE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

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[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9 QUESTIONS BY MR. BOGLE:

10 Q. Okay. Well, let's take a look  
11 at the SOP itself on this issue, then, so we  
12 can sew that up. It's 1.1333, Exhibit 17 to  
13 your deposition, which is MCKMDL00330211.

14 (McKesson-Hilliard Exhibit 17  
15 was marked for identification.)

16 QUESTIONS BY MR. BOGLE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



A horizontal bar chart with 20 rows. Each row has a small square marker on the left and a corresponding horizontal bar. The bars vary in length and position, representing percentages. The bars are gray, and the background is white. The chart is enclosed in a black border.

Category	Percentage
1	95%
2	85%
3	90%
4	88%
5	92%
6	90%
7	40%
8	75%
9	20%
10	20%
11	20%
12	95%
13	90%
14	98%
15	92%
16	75%
17	75%
18	95%
19	70%
20	75%
21	98%
22	92%
23	35%
24	20%
25	20%
26	95%

21 QUESTIONS BY MR. BOGLE:

22 Q. Okay. And I'm going to hand  
23 you next, then, what I'm marking as  
24 Exhibit 18, which is 1.1918, and that's  
25 MCKMDL00591858.

1 (McKesson-Hilliard Exhibit 18

2 was marked for identification.)

3 QUESTIONS BY MR. BOGLE:

4 Q. There you go, sir.

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[REDACTED]

[REDACTED]

[REDACTED]

13 QUESTIONS BY MR. BOGLE:

14 Q. All right. I just want to show  
15 you one more of these audits, which is  
16 Exhibit 1.1917, marked as Exhibit 19 to your  
17 deposition, and that's MCKMDL00591251.

18 (McKesson-Hilliard Exhibit 19  
19 was marked for identification.)

20 QUESTIONS BY MR. BOGLE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



- **Introduction**
- **Background**
- **Methodology**
- **Results**
- **Discussion**
- **Conclusion**
- **References**
- **Appendix**
- **Figure 1**
- **Figure 2**
- **Figure 3**
- **Figure 4**
- **Figure 5**
- **Figure 6**
- **Figure 7**
- **Figure 8**
- **Figure 9**
- **Figure 10**
- **Figure 11**
- **Figure 12**
- **Figure 13**
- **Figure 14**
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- **Figure 20**
- **Figure 21**
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- **Figure 96**
- **Figure 97**
- **Figure 98**
- **Figure 99**
- **Figure 100**





20 QUESTIONS BY MR. BOGLE:

21 Q. All right. Let's take a look  
22 at Exhibit 1.2002, which is Exhibit 20 to  
23 your deposition.

24 (McKesson-Hilliard Exhibit 20  
25 was marked for identification.)

1 QUESTIONS BY MR. BOGLE:

2 Q. All right. And here we've got  
3 a series of e-mails and we're going to walk  
4 through a couple of portions here with you.  
5 This is MCKMDL00622532.

A vertical list of 20 horizontal bars of varying lengths and positions, representing a stylized representation of a document or a list of items. The bars are arranged in a column, with some starting from the left margin and others indented. They vary in length, with some spanning most of the width and others being much shorter. The bars are a solid gray color against a white background.

[illegible]

[illegible]











[illegible]





[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 QUESTIONS BY MR. BOGLE:

13 Q. Okay. Let's take a look at  
14 what I'm marking as Exhibit 21, which is  
15 1.1856, and that's MCKMDL00573535.

16 (McKesson-Hilliard Exhibit 21  
17 was marked for identification.)

18 QUESTIONS BY MR. BOGLE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[illegible]

[illegible]

[REDACTED]

6 Q. Okay. But you're aware that  
7 significant additions to McKesson's  
8 regulatory team did not occur, in fact, until  
9 the 2013-2014 time frame, right?

10 MR. EPPICH: Object to the  
11 form.

12 A. There were -- we doubled in  
13 size when the regional DRAs came aboard, so  
14 that was a major change from that aspect.  
15 There were certainly much larger numbers that  
16 came onboard as the department developed.

17 QUESTIONS BY MR. BOGLE:

18 Q. Right. But we just looked at  
19 this discussion from 2009. So it wasn't --  
20 after 2009, it wasn't until late 2013, early  
21 2014, that significant additions were made as  
22 far as staffing in the regulatory department  
23 of McKesson, right?

24 MR. EPPICH: Objection to form;  
25 asked and answered.



1           A.       I'm not sure exactly on the  
2       dates. We doubled in size in the 2009 time  
3       frame, and at this point and juncture of 2013  
4       and such, I'm no longer working actively in  
5       the CSMP program. But there were  
6       additional -- significant additional head  
7       count that was produced to the department. I  
8       just don't know exact dates when that  
9       occurred.

10       QUESTIONS BY MR. BOGLE:

11           Q.       When you say you doubled in  
12       size in around 2009, that's doubling from  
13       three people to six people, right?

14           A.       Four more were added, so it's  
15       from three to seven.

16           Q.       Three to seven people, okay.

17           A.       Yeah.

18           Q.       And that's to cover, again,  
19       what is approximately 30 distribution  
20       centers, right?

21           A.       Correct.

22           Q.       Okay. And you're aware of --  
23       well, strike that.

■

■

■

■

■ [REDACTED]

■ [REDACTED]

3 MR. EPPICH: Object to the  
4 form. Calls for speculation.

5 A. I didn't have any control on  
6 the head count in the department. That would  
7 be our -- Don Walker's position to decide  
8 what type of head counts we needed to cover  
9 the area. Again, I wasn't assigned to a  
10 region for those processes.

11 QUESTIONS BY MR. BOGLE:

12 Q. Okay. So additional staffing  
13 wouldn't have been your call. Is that what  
14 you're saying?

15 A. That's correct.

16 Q. We touched on this a little  
17 bit, but I want to talk more specifically  
18 about it. In 2008, following the settlement  
19 we saw with the DEA, the CSMP was  
20 implemented, right?

21 A. Correct.

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

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[REDACTED]

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[REDACTED]

[REDACTED]

6 QUESTIONS BY MR. BOGLE:

7 Q. Okay. But we looked at the  
8 2008 settlement agreement where there were --  
9 there was a \$13.25 million fine paid for  
10 conduct related to various distribution  
11 centers for distribution of opioids.

12 In your view, after that, was  
13 there not some reason to change the course of  
14 conduct at McKesson as it pertained to  
15 controlled substance distribution?

16 MR. EPPICH: Objection to the  
17 form; calls for speculation.  
18 Foundation.

19 A. McKesson, we worked to develop  
20 new and enhanced programs that demonstrates  
21 activity that occurred after that agreement.

22 QUESTIONS BY MR. BOGLE:

23 Q. Okay. But with the conduct  
24 that we looked at in that settlement  
25 agreement, do you agree or not agree that

1 changes needed to be made in the controlled  
2 substance monitoring practices at McKesson?

3 MR. EPPICH: Object to form.

4 A. There were changes made.

5 That's how we came to develop the LDMP and  
6 then developed the more robust CSMP program.

7 QUESTIONS BY MR. BOGLE:

8 Q. And if those changes are going  
9 to be meaningful, then it shouldn't be  
10 business as usual for customers, should it?  
11 It should be more difficult for customers to  
12 get controlled substances, right?

13 MR. EPPICH: Object to the  
14 form. Vague.

15 A. You can work collaboratively  
16 with your customers and not make it painful  
17 for them, so, you know, it's -- business  
18 doesn't have to be painful. Changing  
19 processes, enhancing programs, working  
20 collaborative with customers, is what was  
21 needed and what we developed and it could  
22 enhance the program.

23 QUESTIONS BY MR. BOGLE:

24 Q. Okay. So then when the CSMP  
25 was developed, was it your understanding that

1 the ultimate goal was to make sure that  
2 customers stayed happy and kept getting the  
3 product that they wanted to get?

4 MR. EPPICH: Object to the  
5 form; vague, misstates prior  
6 testimony.

7 A. Obviously that wasn't the  
8 purpose.

9 QUESTIONS BY MR. BOGLE:

10 Q. Okay. So is it an accurate  
11 statement that the goal was to make sure that  
12 there was no disruption in the business  
13 activities of any McKesson customer?

14 MR. EPPICH: Objection to the  
15 form; misstates prior testimony.  
16 Calls for speculation.

17 A. As stated before, there were  
18 customers that we discontinued doing business  
19 with. So in some cases, customers would be  
20 unhappy. But that doesn't mean that all  
21 customers are going to get discontinued  
22 business. They're all going to get reviewed,  
23 and again, it doesn't mean it has to disrupt  
24 the business between the companies.

25 --oOo--

1 QUESTIONS BY MR. BOGLE:

2 Q. But if it becomes more  
3 difficult for customers to get opioid  
4 products, isn't that justified if you're  
5 facing an epidemic?

6 MR. EPPICH: Objection to the  
7 form. Vague. Calls for speculation.

8 A. I don't know what that would  
9 affect to the customer. Just because you're  
10 doing a review and you're knowing your  
11 customer, you're making sure they obtain the  
12 amount of product that they need for  
13 legitimate purposes. That's not painful for  
14 a customer.

15 QUESTIONS BY MR. BOGLE:

16 Q. Okay. So it's your testimony,  
17 then, that -- I'm trying to make sure I  
18 understand what you're saying here. So the  
19 business-as-usual attitude did exist in  
20 creation of the CSMP, right?

21 MR. EPPICH: Objection.

22 QUESTIONS BY MR. BOGLE:

23 Q. Am I understanding you  
24 correctly?

25 MR. EPPICH: Objection, form.



1 Misstates prior testimony.

2           A.           No. We put together processes  
3           and our functions changed. We had different  
4           procedures that we had to comply with and  
5           that also meant working with customers.

6 QUESTIONS BY MR. BOGLE:

7 Q. Okay. I'm handing you what I'm  
8 marking as Exhibit 22 to your deposition,  
9 which is Exhibit 1.1962, and that's  
10 MCKMDL00543610.

11 (McKesson-Hilliard Exhibit 22  
12 was marked for identification.)

13 QUESTIONS BY MR. BOGLE:

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

7 QUESTIONS BY MR. BOGLE:

8 Q. Okay. I'm going to hand you  
9 what I'm marking as Exhibit 23, which is  
10 1.1804, and that's MCKMDL00543971.

11 (McKesson-Hilliard Exhibit 23  
12 was marked for identification.)

13 QUESTIONS BY MR. BOGLE:

14 Q. There you go, sir.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[illegible]



[illegible]

21 MR. EPPICH: Are you at a good  
22 place to take another break?

23 MR. BOGLE: Yeah, I was  
24 actually about to say the same thing.  
25 You read my mind.

1 MR. EPPICH: Let's go ahead and  
2 go off the record.

3 THE VIDEOGRAPHER: Off the  
4 record at 2:34.

5 (Recess taken, 2:34 p.m. to  
6 2:50 p.m.)

7 THE VIDEOGRAPHER: Stand by.  
8 The time is 2:50. Back on the record,  
9 beginning of File 5.

10 QUESTIONS BY MR. BOGLE:

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10 Q. Okay. Then if we go back to  
11 Exhibit 3, which is the Rannazzisi letter  
12 from September 27, 2006, you recall  
13 discussing this letter with me earlier today,  
14 right?

15 A. Yes, I do.

16 Q. Okay. If we go to the second  
17 page of the letter, there is a paragraph  
18 about three-quarters of the way down that  
19 says, "Thus, in addition to."

20 Do you see that?

21 A. Yes, I do.

22 Q. It says: Thus, in addition to  
23 reporting all suspicious orders, a  
24 distributor has a statutory responsibility to  
25 exercise due diligence to avoid filling

1 suspicious orders that might be diverted into  
2 other than legitimate medical, scientific,  
3 and industrial channels.

4 Do you see that?

5 A. I see that.

6 Q. Okay. And the next paragraph  
7 down that we read before talks about the  
8 distributor needing to exercise due care in  
9 confirming the legitimacy of orders prior to  
10 filling.

11 Do you see that reference in  
12 the last sentence?

13 A. Yes, I see that now.

14 Q. Okay. So, again, this letter  
15 from September 27, 2006, you would agree with  
16 me makes clear that the expectation is that  
17 McKesson will be reporting suspicious orders  
18 and not filling them if it deems them  
19 suspicious, right?

20 MR. EPPICH: Object to the  
21 form. The document speaks for itself.

22 A. That's what's stated on here.

23 QUESTIONS BY MR. BOGLE:

24 Q. Okay. And so the idea, then,  
25 is not to report suspicious sales, because

1       you're not supposed to make the sale if the  
2       order is suspicious, right?

3                       MR. EPPICH: Object to the  
4       form. Calls for speculation.

5       A.       It states "suspicious orders."

6       QUESTIONS BY MR. BOGLE:

7       Q.       And not "suspicious sales,"  
8       right?

9                       MR. EPPICH: Object to the  
10      form; calls for speculation.

11      A.       I don't recall seeing "sales"  
12      listed here.

13      QUESTIONS BY MR. BOGLE:

[REDACTED]

[illegible]



[REDACTED]

20           Q.       All right. I'm going to hand  
21       you now what I'm marking as Exhibit 24, which  
22       is 1.1937, and that's MCKMDL00623568.

23                       (McKesson-Hilliard Exhibit 24  
24       was marked for identification.)

25                               --oOo--



[illegible]

[illegible]

Section	Question	Yes (%)	No (%)
Business	Has the COVID-19 pandemic had a negative impact on your business?	85	15
	Has the COVID-19 pandemic led to a decrease in the number of employees in your business?	75	25
	Has the COVID-19 pandemic led to a decrease in the revenue of your business?	80	20
	Has the COVID-19 pandemic led to an increase in the costs of your business?	70	30
	Has the COVID-19 pandemic led to a decrease in the profitability of your business?	85	15
	Has the COVID-19 pandemic led to a decrease in the number of customers of your business?	75	25
	Has the COVID-19 pandemic led to a decrease in the quality of your business?	70	30
	Has the COVID-19 pandemic led to a decrease in the reputation of your business?	80	20
	Has the COVID-19 pandemic led to a decrease in the loyalty of your customers?	75	25
	Has the COVID-19 pandemic led to a decrease in the overall performance of your business?	85	15
Personal	Has the COVID-19 pandemic had a negative impact on your health?	10	90
	Has the COVID-19 pandemic led to a decrease in the number of family members in your household?	10	90
	Has the COVID-19 pandemic led to a decrease in the income of your household?	70	30
	Has the COVID-19 pandemic led to an increase in the expenses of your household?	75	25
	Has the COVID-19 pandemic led to a decrease in the overall financial situation of your household?	80	20
	Has the COVID-19 pandemic led to a decrease in the quality of life of your household?	75	25
	Has the COVID-19 pandemic led to a decrease in the number of family members who are employed?	70	30
	Has the COVID-19 pandemic led to a decrease in the number of family members who are students?	75	25
	Has the COVID-19 pandemic led to a decrease in the number of family members who are retired?	70	30
	Has the COVID-19 pandemic led to a decrease in the overall well-being of your household?	85	15

[illegible]

Category	Percentage
1. Very high	100%
2. High	100%
3. Medium	100%
4. Low	100%
5. Very low	100%
6. Not sure	100%
7. Don't know	100%
8. No answer	100%
9. No opinion	100%
10. No response	100%
11. No data	100%
12. No information	100%
13. No knowledge	100%
14. No experience	100%
15. No contact	100%
16. No relationship	100%
17. No connection	100%
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19. No association	100%
20. No correlation	100%
21. No comparison	100%
22. No contrast	100%
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48. No similarity	100%
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98. No difference	100%
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100. No contrast	100%

[illegible]



[illegible]

[illegible]

[illegible]

[illegible]

[REDACTED]

20 QUESTIONS BY MR. BOGLE:

21 Q. Okay. All right. Let me hand  
22 you what I'm marking as Exhibit 25. It's  
23 1.1443. It's also MCKMDL00409453.  
24 (McKesson-Hilliard Exhibit 25  
25 was marked for identification.)

1 QUESTIONS BY MR. BOGLE:

■ ■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

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■ [REDACTED]

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■ [REDACTED]

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■ [REDACTED]

■ [REDACTED]

[illegible]





[illegible]

[illegible]

[illegible]

[illegible]

A horizontal bar chart with 25 rows. Each row has a small square icon on the left and a corresponding horizontal bar. The bars vary in length and are positioned at different vertical levels, suggesting a non-linear or categorical scale. The bars are gray, and the background is white.

Category	Percentage
1	85%
2	85%
3	45%
4	75%
5	75%
6	85%
7	65%
8	85%
9	45%
10	55%
11	55%
12	65%
13	75%
14	85%
15	35%
16	55%
17	55%
18	65%
19	75%
20	85%
21	35%
22	55%
23	55%
24	65%
25	75%

[REDACTED]

20 QUESTIONS BY MR. BOGLE:

21 Q. Okay. I'm going to hand you  
22 now what I'm marking as Exhibit 26, which is  
23 1.1432, and that's MCKMDL00409048.

24 (McKesson-Hilliard Exhibit 26  
25 was marked for identification.)



A vertical list of 20 horizontal bars of varying lengths and positions, representing a stylized representation of a document or a list of items. The bars are arranged in a column, with some starting from the left margin and others indented. They vary in length, with some spanning most of the width of the page and others being much shorter. The bars are a solid light gray color.

21 QUESTIONS BY MR. BOGLE:

22 Q. Okay. I'm just asking if you  
23 know one was entered.

24           A.       Yes, I know that one was  
25   entered.



1 Q. Okay. Where there was a  
2 \$150 million fine assessed?

3 MR. EPPICH: Objection; calls  
4 for speculation.

5 A. That was my understanding.

6 QUESTIONS BY MR. BOGLE:

7 Q. Okay. And do you also  
8 understand that as a part of that settlement  
9 agreement, McKesson accepted responsibility  
10 for failing to report suspicious orders?

11 MR. EPPICH: Objection to the  
12 form; calls for speculation.

13 A. No, I'm not aware of that. I  
14 don't think I was with McKesson when that was  
15 finalized.

16 QUESTIONS BY MR. BOGLE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

19 QUESTIONS BY MR. BOGLE:

20 Q. All right. We'll mark for you  
21 Exhibit 27, which is 1.88. That's  
22 MCKMDL00355350. And what I've handed you,  
23 sir, is the Administrative Memorandum  
24 Agreement that accompanied the 2017  
25 settlement between DOJ and McKesson, okay?

1 A. Yes, I have it.

2 Q. Okay. And I want to just point  
3 you to one specific passage here, and it's  
4 on .3. Number 2 says "Acceptance of  
5 Responsibility."

6 Are you with me there?

7 A. Yes, I am.

8 Q. It says: On or about  
9 September 27, 2006, February 7, 2007, and  
10 December 27, 2007, DEA's Deputy Assistant  
11 Administrator, Office of Diversion Control,  
12 sent letters to every entity in the United  
13 States that was registered with DEA to  
14 manufacture or distribute controlled  
15 substances, including McKesson.

16 Now, the September 27, 2006  
17 letter, that's one that we've actually  
18 reviewed here today, right?

19 A. The Rannazzisi?

20 Q. Yes, sir.

21 MR. EPPICH: Objection to the  
22 form; foundation.

23 QUESTIONS BY MR. BOGLE:

24 Q. You recall reading that letter  
25 with me?

1           A.       The Rannazzisi letter, yes.

2           Q.       Okay. And again, that was a  
3       letter that you received, right?

4                   MR. EPPICH: Objection to the  
5       form; foundation.

6           A.       I did receive it at some point,  
7       yes.

8       QUESTIONS BY MR. BOGLE:

9           Q.       Okay. It continues here: The  
10       DEA Letters contained, among other things,  
11       guidance for the identification and reporting  
12       of suspicious orders to DEA as required by  
13       21 C.F.R. Section 1301.74(b). McKesson  
14       acknowledges that, at various times during  
15       the time period from January 1, 2009 up  
16       through and including the Effective Date of  
17       this Agreement (the "Covered Time Period"),  
18       it did not identify or report to DEA certain  
19       orders placed by certain pharmacies which  
20       should have been detected by McKesson as  
21       suspicious based on the guidance contained in  
22       the DEA Letters about the requirements set  
23       forth in 21 C.F.R. 1301.74(b) and  
24       21 U.S.C. Section 842(a)(5).

25                   Do you see that?

1                   A.       I see that.

2 MR. EPPICH: Objection;

3 foundation.

4 QUESTIONS BY MR. BOGLE:

Response	Percentage
Yes, the U.S. should take action to reduce global warming	92%
No, the U.S. should not take action to reduce global warming	8%

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Age Group	Percentage
18-24	10%
25-34	15%
35-44	25%
45-54	30%
55-64	15%
65-74	10%
75-84	5%
85+	5%

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\_\_\_\_\_

Response	Percentage
Doing a good job	65%
Not doing a good job	35%

16 QUESTIONS BY MR. BOGLE:

17 Q. Okay. While you were with  
18 McKesson, did you have a sense -- I mean, you  
19 were there for nearly 20 years. Did you have  
20 a sense and feeling that McKesson would  
21 accept responsibility for things that it  
22 didn't do?

23 MR. EPPICH: Object to the  
24 form; calls for speculation.

25           A.       I wasn't part of the agreement

1 and I'm not familiar with this document, so I  
2 don't know.

3 QUESTIONS BY MR. BOGLE:

4 Q. I'm not specifically asking you  
5 about the document right now. I'm saying,  
6 during your 20 years spent at McKesson, do  
7 you have a belief that McKesson would accept  
8 responsibility for things that it didn't do?

9 MR. EPPICH: Object to the  
10 form; calls for speculation.

11 A. I don't know.

12 QUESTIONS BY MR. BOGLE:

13 Q. Okay. And can you think of any  
14 other instance in the 20 years you were at  
15 McKesson where the company paid anything  
16 approaching a \$150 million fine for something  
17 it didn't do?

18 MR. EPPICH: Object to the  
19 form; calls for speculation.

20 A. I don't know.

21 QUESTIONS BY MR. BOGLE:

22 Q. Can you think of any off the  
23 top of your head?

24 MR. EPPICH: Same objections.

25 A. I'm not aware of any.

1 MR. BOGLE: Okay. No further  
2 questions for you, sir.

3 THE WITNESS: Thank you.

4 MR. EPPICH: Let's go ahead and  
5 take a break and go off the record.

6 THE VIDEOGRAPHER: Off the  
7 record at 3:25.

8 (Recess taken, 3:25 p.m. to  
9 3:46 p.m.)

10 THE VIDEOGRAPHER: All right,  
11 stand by. The time is 3:46. Back on  
12 the record.

13 EXAMINATION

14 QUESTIONS BY MR. EPPICH:

15 Q. Good afternoon, Mr. Hilliard.  
16 My name is Chris Eppich, and I'm just going  
17 to ask a few questions of you this afternoon.

18 A. Okay.

19 Q. I know it's been a long day so  
20 I'll keep it pretty short.

21 You testified earlier today  
22 that you joined McKesson in 1997. Is that  
23 right?

24 A. That's correct.

25 Q. And can you briefly describe

1 for us your duties as director of regulatory  
2 affairs from 1997 to, say, 2006?

3 A. Well, from '97 to  
4 approximately '98, the title was manager of  
5 regulatory affairs. Still carried the same  
6 job functions when I went to director of  
7 regulatory affairs.

8 I had DEA oversight in regards  
9 to compliance with DEA's Section 55, which  
10 was the operating procedures for all things  
11 DEA, and so that also included the suspicious  
12 order monitoring program within it as well,  
13 which was based on the previous working group  
14 from the Suspicious Order Task Force that  
15 McKesson was involved with prior to my  
16 arrival. So that product, that result of  
17 that meeting was developed into the  
18 Section 55.

19 So I worked with our DC  
20 managers to ensure that they were in  
21 compliance with the Section 55 requirements,  
22 including the suspicious order aspect of it.  
23 I audited them as well and worked with them  
24 with any issues that they may bring to my  
25 attention, and I also worked on the ARCOS



1 part of it and training the associates there  
2 at the facilities in theft and loss reports  
3 and sometimes investigations.

Also, I mentioned the audits, I conducted the DEA audits as well as other regulatory audits for the operations. In addition to the DEA responsibilities, I also had responsibilities under the waste management or environmental aspect of it for EPA, also for hazardous materials for DOT and FAA transportation aspects of it; for registrations, including the DEA registrations for our facilities, and our state licensures and state-controlled substance licensures for our facilities.

16 I also worked with FDA  
17 compliance for our facilities as well, and  
18 that carried up to about 2006.



Highly Confidential - Subject to Further Confidentiality Review

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

15           Q.       Now, I interrupted you when you  
16           were talking about your responsibilities as  
17           the director of regulatory affairs. What  
18           were your responsibilities between the years  
19           2006 to 2008?

20           A.       I still had the same  
21           responsibilities, with additional  
22           responsibilities as it related to working  
23           with our DC managers on identified customers  
24           by the DEA and then starting to develop the  
25           LDMP processes and crafting the SOP, which

1       then developed into the CSMP.

2               Q.       So you worked on the  
3       development of the LDMP and then the  
4       development of the CSMP. Is that right?

5               A.       Correct.

6               Q.       Now, that -- and do you recall  
7       when the CSMP was released?

8               A.       I believe it was 2008.

9               Q.       Okay. And after 2008, after  
10      the release of the CSMP, what were your  
11      responsibilities as a director of regulatory  
12      affairs at McKesson?

13              A.       I still helped to work with the  
14      SOPs, but the regional directors came onboard  
15      and so they managed the correlation with the  
16      DCs, their respective DCs in those regions as  
17      it relates to the CSMP processes and  
18      procedures, and I still continued with --  
19      again, with the normal DEA audits and then  
20      also continued with my other responsibilities  
21      under FDA and HAZMAT and EPA.

22              Q.       Now, do you recall -- do you  
23      recall who your supervisors were? Let's go  
24      ahead and take it back in time. Let's take  
25      it from about 1997 to the 2006 time period.

1 Do you recall who your supervisors were?

2 A. So when I joined in '97, Dan  
3 White was my boss and he was a VP of  
4 regulatory. And then after Dan White, I  
5 believe it was Don Walker. Again, I don't  
6 remember the exact dates. I believe it was  
7 Don Walker, and then to Ron Bone. I know I  
8 was reporting to Ron Bone in the 2005-2006  
9 time frame.

10 Ron left and then I was  
11 reporting to Bruce and -- Bruce Russell and  
12 Don Walker; and then once Bruce retired, it  
13 was directly to Don Walker. And then finally  
14 I reported to Krista Peck.

15 Q. You testified earlier today  
16 that you were familiar with the Controlled  
17 Substances Act.

18 Do you remember that testimony?

19 A. Yes, I do.

20 Q. Now, during -- and you  
21 testified that you were in the regulatory  
22 affairs department at McKesson from 1997 all  
23 the way to 2016, correct?

24 A. That's correct.

25 Q. Now, during your time at

1 McKesson, are you aware of any changes to the  
2 Controlled Substances Act?

3                    A.        No, I'm not.

4 Q. The CSA didn't change at all  
5 during your tenure at McKesson?

6 MR. BOGLE: Object to form.

7                    A.        That 's correct.

8 QUESTIONS BY MR. EPPICH:

9 Q. Now, have directives from the  
10 DEA changed over that period?

11                   A.       Yes, they have.

12 Q. Can you provide us any examples  
13 of how DEA directives have changed while you  
14 were at McKesson?

15 MR. BOGLE: Object to form.



[illegible]

Row	Bar Start (approx. %)	Bar End (approx. %)
1	0	85
2	35	85
3	0	88
4	0	83
5	0	68
6	35	93
7	0	97
8	0	97
9	0	95
10	0	100
11	0	95
12	0	93
13	0	25
14	35	87
15	0	77
16	0	98
17	0	98
18	0	89
19	0	25
20	35	95
21	0	100
22	0	97
23	0	100
24	0	95
25	0	58

A horizontal bar chart with 20 rows. Each row has a small square marker on the left and a corresponding horizontal bar. The bars vary in length and position, representing different percentages. The bars are gray, and the background is white. The chart is enclosed in a black border.

Category	Percentage
1	25%
2	85%
3	20%
4	40%
5	35%
6	50%
7	10%
8	55%
9	85%
10	75%
11	25%
12	40%
13	45%
14	10%
15	55%
16	80%
17	85%
18	10%
19	85%
20	75%
21	55%
22	40%
23	75%
24	85%
25	65%
26	85%

[REDACTED]

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[REDACTED]

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[REDACTED]

[REDACTED]

7 QUESTIONS BY MR. EPPICH:

8 Q. Mr. Hilliard, are you familiar  
9 with the ARCOS reporting system?

10 A. Yes, I am.

11 Q. What is the ARCOS reporting  
12 system?

13 A. It's a reporting system that's  
14 put in place way past when I started in the  
15 industry, that the DEA runs. It's run out of  
16 headquarters and it's a reporting system for  
17 manufacturers and distributors.

18 So manufacturers and  
19 distributors have to submit essentially all  
20 the raw data for their transactions for  
21 Schedule IIs and Schedule III narcotics, and  
22 this included all the sales receipts,  
23 returns, theft/loss, no activity, if you had  
24 no activity for a registrant during the  
25 month.

1                   So it had monthly reporting  
2       requirements for every registrant that's a  
3       manufacturer or distributor.

4           Q.       So McKesson has to submit its  
5       sales data to the DEA as a part of this ARCOS  
6       reporting requirement? Is that correct?

7                   MR. BOGLE: Object. Object to  
8       form.

9           A.       That's correct.

10       QUESTIONS BY MR. EPPICH:

11           Q.       And do other distributors have  
12       to similarly report their sales data for  
13       controlled substances to this ARCOS reporting  
14       system?

15                   MR. BOGLE: Object to form.

16           A.       That's correct.

17       QUESTIONS BY MR. EPPICH:

18           Q.       Does McKesson have access to  
19       other distributors' data that's reported to  
20       ARCOS?

21           A.       No, they don't. We asked for  
22       it.

23           Q.       Who has access to the ARCOS  
24       reporting data?

25           A.       Only the DEA.

1 Q. Did McKesson have the ability  
2 to know -- let me strike that.

█

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17 QUESTIONS BY MR. EPPICH:

18 Q. You may recall a few moments  
19 ago Mr. Bogle asked you some questions about  
20 Exhibit 27. Do you have Exhibit 27 in front  
21 of you?

22 A. Yes, I do.

23 Q. Now, Exhibit 27 is titled the  
24 Administrative Memorandum of Agreement.

25 Do you see that?

1           A.       I see it.

2           Q.       Mr. Bogle had you turn to  
3       page 3 of this document, which is Bates  
4       ending 355352.

5           A.       I see that.

6           Q.       Do you remember that, sir?

7           A.       Yes, I do.

8           Q.       And he read Section 2,  
9       Acceptance of Responsibility, to you.

10                   Do you remember that testimony?

11          A.       Yes, I do.

12          Q.       Now, about halfway down this  
13       paragraph, the paragraph reads: McKesson  
14       acknowledges that, at various times during  
15       the period from January 1, 2009, up through  
16       and including the Effective Date of this  
17       Agreement, it did not identify or report to  
18       DEA certain orders placed by certain  
19       pharmacies which should have been detected by  
20       McKesson as suspicious based on the guidance  
21       contained in the DEA Letters and -- about the  
22       requirements set forth in 21 C.F.R.  
23       1307.174(b) and 21 U.S.C. 842(a)(5).

24                   Do you see that, sir?

25          A.       Yes, I see it.

1 Q. Now, before your deposition  
2 today, had you ever seen Exhibit 27?

3 A. No, I haven't.

4 Q. And while you were at McKesson,  
5 did anyone ask you to investigate any of the  
6 pharmacies' alleged activity that's described  
7 in this document for this period January 1,  
8 2009, to the date of this agreement?

9 A. No.

10 Q. Do you have any knowledge about  
11 the allegations described in Exhibit 27?

12 A. Not that I recall.

13 Q. If you could turn to  
14 Exhibit 26. Mr. Bogle introduced Exhibit 26  
15 to you.

16 Do you remember that?

17 A. Yes, I do.

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6 Q. If we could turn to Exhibit 25.

7 Do you have that one in front of you?

8 A. Yes, I do.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

22 Q. Thank you.

23 We mentioned -- you discussed

24 earlier, testified earlier with Mr. Bogle

25 about the LDMP and the CSMP program.

1 Do you remember that testimony?

2 A. Yes, I do.

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17 QUESTIONS BY MR. EPPICH:

18 Q. You talked briefly earlier

19 about the evolution of the CSMP.

20 Do you remember that testimony?

21 A. I believe so.

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[REDACTED]

17 Q. Thank you, Mr. Hilliard.

18 Mr. Hilliard, you worked at  
19 McKesson for over 20 years. How would you  
20 describe McKesson's culture in the area of  
21 compliance and regulatory affairs?

22 A. I enjoyed working at McKesson  
23 and working with my colleagues. I know that  
24 myself and my colleagues always worked with  
25 the utmost integrity and always believed in

1       what we were doing and strived to do the  
2       right thing, and as they brought new folks in  
3       and I worked with some of them, they too were  
4       on the same page and had the same goals that  
5       we had.

6               Q.       Thank you, Mr. Hilliard.

7                       MR. EPPICH: I have no further  
8       questions.

9                       MR. BOGLE: I've just got a few  
10       follow-ups. It's your call,  
11       Mr. Hilliard. If you're okay looking  
12       straight ahead, I've probably got like  
13       six or seven questions for you.

14                      THE WITNESS: That's fine.

15                      MR. BOGLE: If you want me to  
16       move back over there, I really don't  
17       care.

18                      THE WITNESS: That's fine.

19                      MR. BOGLE: You good? Okay.  
20       Just -- Chris is going to tell you to  
21       look straight ahead. Don't look at  
22       me, which is probably easy for you to  
23       do.

24                      All right. I'm ready.

25                                       --oOo--

1 FURTHER EXAMINATION

2 QUESTIONS BY MR. BOGLE:

[illegible]

[illegible]

[illegible]

[illegible]



1. [REDACTED]
2. [REDACTED]
3. [REDACTED] [REDACTED]
4. [REDACTED]
5. [REDACTED]
6. [REDACTED] [REDACTED]
7. [REDACTED]
8. [REDACTED] [REDACTED]
9. [REDACTED]
10. [REDACTED]
11. [REDACTED]
12. [REDACTED]
13. [REDACTED]
14. [REDACTED]
15. [REDACTED]
16. [REDACTED]
17. [REDACTED]
18. [REDACTED]
19. [REDACTED]
20. [REDACTED]
21. [REDACTED]
22. [REDACTED]
23. [REDACTED]
24. [REDACTED]
25. [REDACTED]
26. [REDACTED]
27. [REDACTED]
28. [REDACTED]
29. [REDACTED]
30. [REDACTED]

[illegible]

[illegible]

■

[REDACTED]

2 QUESTIONS BY MR. BOGLE:

3 Q. Yeah. So I'm not talking about  
4 the CSA. I'm talking about, again, what a  
5 good company would do.

6 Do you think it would be a bad  
7 thing for McKesson, in an attempt to be a  
8 good corporate citizen, to at all times know  
9 what its customers were doing with the  
10 opioids it was distributing to them?

11 MR. EPPICH: Object to the  
12 form; asked and answered.

13 A. We had processes in place to  
14 comply with the CSA, and I can't specifically  
15 speak to everybody in McKesson.

16 QUESTIONS BY MR. BOGLE:

17 Q. Okay. And I'm not -- okay.  
18 Let me ask it to you this way: Do you think,  
19 as Gary Hilliard, director of regulatory  
20 affairs for nearly 20 years at McKesson,  
21 that -- is your personal belief that it would  
22 be a bad thing for McKesson to know what its  
23 customers were doing with opioids McKesson  
24 was distributing to them? What is your  
25 personal opinion?

1 MR. EPPICH: Object to the  
2 form; asked and answered.

3 A. As I say, we believed that we  
4 were doing what was required, and we had  
5 means to investigate and look into our  
6 customers and their business activities.

7 QUESTIONS BY MR. BOGLE:

8 Q. Would it be a bad thing to know  
9 what your customer is doing with the opioids  
10 you're giving them? That's my question.

11 MR. EPPICH: Objection, form.

12 Asked and answered.

13 A. Our customers were registered  
14 with the DEA. We serviced our customers that  
15 had DEA registrations and were receiving  
16 prescriptions from DEA-registered physicians.  
17 We believed we were complying with the CSA  
18 requirements.

19 QUESTIONS BY MR. BOGLE:

20 Q. Okay. So as long as they were  
21 registered with the DEA, that was all you  
22 needed to know about your customer, right?

23 MR. EPPICH: Objection.

24 Misstates the prior testimony. Form.

25 A. Again, we were doing what we

1 believed was correct under the CSA.

2 QUESTIONS BY MR. BOGLE:

3 Q. Which was if they had a  
4 registration, they were good to go, right?

5 MR. EPPICH: Objection to form;  
6 asked and answered.

[illegible]

19 MR. BOGLE: Okay. No further  
20 questions.

21 MR. EPPICH: Thank you.

22                   Before we get off the record,  
23           let me designate the transcript as  
24           highly confidential, and we'll read  
25           and sign.

1 THE REPORTER: Thank you, sir.

2 MR. EPPICH: Thank you.

3 THE VIDEOGRAPHER: Off the  
4 record at 4:20.

5 (Deposition recessed at  
6 4:20 p.m.)

7 --oOo--

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CERTIFICATE

I, SUSAN PERRY MILLER, Registered  
Diplomate Reporter, Certified Realtime  
Reporter, Certified Court Reporter and Notary  
Public, do hereby certify that prior to the  
commencement of the examination, GARY  
HILLIARD was duly sworn by me to testify to  
the truth, the whole truth and nothing but  
the truth;

That pursuant to Rule 30 of the  
Federal Rules of Civil Procedure, signature  
of the witness was reserved by the witness or  
other party before the conclusion of the  
deposition;

That the foregoing is a verbatim  
transcript of the testimony as taken  
stenographically by and before me at the  
time, place and on the date hereinbefore set  
forth, to the best of my ability.

I DO FURTHER CERTIFY that I am  
neither a relative nor employee nor attorney  
nor counsel of any of the parties to this  
action, and that I am neither a relative nor  
employee of such attorney or counsel, and  
that I am not financially interested in the  
action.

---

Susan Perry Miller  
CSR-TX, CCR-LA, CSR-CA-13648  
Registered Diplomate Reporter  
Certified Realtime Reporter  
Certified Realtime Captioner  
NCRA Realtime Systems Administrator  
Notary Public, State of Texas  
My Commission Expires 03/30/2020

Dated: 14th of January, 2019

1 ACKNOWLEDGMENT OF DEPONENT

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4

I, GARY HILLIARD, do hereby  
certify that I have read the foregoing pages  
and that the same is a correct transcription  
of the answers given by me to the questions  
therein propounded, except for the  
corrections or changes in form or substance,  
if any, noted in the attached  
Errata Sheet.

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\_\_\_\_\_  
GARY HILLIARD

\_\_\_\_\_  
DATE

13

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18 Subscribed and sworn  
to before me this

19 \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

20 My commission expires:\_\_\_\_\_

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22 Notary Public

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ERRATA

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